

A N
 IMPARTIAL ACCOUNT
 OF THE
 Arraignment, Trial & Condemnation
 OF
 THOMAS
 Late EARL of
 STRAFFORD,
And Lord LIEUTENANT of
 IRELAND:
 BEFORE
 The PARLIAMENT at WESMINSTER,
Anno Dom. 1641.

LONDON, Printed for Joseph Hindmarsh at the
 Black Bull near the Royal Exchange in Cornhil, 1679.

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IMPARIAL ACCOUNT

OF THE

Regiment of Foot & Cavalry

1791

THOMAS

Late EARL of

STRAFFORD

And Lord Lieutenant of

IRELAND.

BEFORE

THE PARLIAMENT OF GREAT BRITAIN

IN THE YEAR 1791

LONDON: Printed for Joseph Hindmarsh at the
Royal Exchange in Cornhill 1791.



TO THE READER.

Amongst the Superfoetations of the Press, I hope you will have no Cause to Peck on this small Collection, either if you respect the Matter of it, I mean the Pleadings in it, or the Great Personage concerned in them; I am apt to perswade my self it may not altogether be unsearsonable in the present Conjunction of Affairs, nor undeneficial to the Reader, who shall carefully peruse in: The Case in self, as well as the Actor the Great and Noble Earl of Strafford, have somewhat more than ordinary and peculiar in them; and as this Great and Solemn Trial is so Paramount in the Equipage of all its Circumstances, that (as former Ages have been unable) so future are unable to produce its Parallel. To give you, though but a Rude Draught of this Great Master of Defence, who so easily put by the Thrusts of his most applaudedly Skilful and Dexterous Adversaries, will require an Abler Pencil than mine. Take then his Character in this Book from his own Mouth; seeing otherwise whatsoever may be spoken of him, is beneath what was spoken by him; and instead of those Strange and Unheard of Monopolies laid to his Charge in this his Trial, he may seem a greater himself in engrossing so much of Worth and Ability in his own Bosom.

As to the Matter of these Collections, you have in them a Fine and Pleasant Intermixture of Points of Law and Matters

To the Reader.

Matters of State : You may thereby understand the Constitutions of the two Kingdoms, which were then in a strange and most preter-natural Fermentation, a Sick Stomach, nauseating at Pleasant and Wholsome Meat ; the Body Politick growing Hot and Feavourish, in strange Jactations and Unquietnesses, wilfully refusing and scorning the Help and Advice of a most Skilful Æsculapius. The Collector, you will find, hath very well discharged his Part, Ne quid Falsi dicere audax, ne quid Veri dicere non audax : Herein is nothing false Reported, no material Truth Omitted, and nothing Trivial to swell the Book, and make it more Chargeable, and less Useful to the Peruser, is for any private End or Design of the Publisher's Gain, here set down or observed : So that I may compare this Collection to a well-made and easily manageable Net, that as Nothing Considerable escapes its Draught, so there is no great Pains or Toil in the Cleansing of it, no Sticks, Stones, or Small Fish to give thee any Trouble to return them whence thou hadst them. To be short, In the Perusal of this Brief, but Full Account of this Great Transaction, thy Pains will not be Great, so thy Charge (but not Advantage) will be Inconsiderable. Farewell.

T H E

(1)
THE
PROCEEDINGS

AGAINST

THOMAS Earl of STRAFFORD,
Lord Lieutenant of IRELAND, in the Parliament
at Westminster, Anno Dom. 1641.

Sir,

Y^eou have here the Diurnal of the whole Process against the Lord Lieutenant of Ireland it was taken by the hand of a ready Writer, a faithful Ear, and an understanding Head. He was present at all the Action, and I make no doubt of the Fidelity of his Relation; Which beginneth thus:

THE House for the Appearance of the Lord Lieutenant, was the great Hall in Westminster, where there was a Throne erected for the King, on each side thereof a Cabinet enclosed about with Boards, and before with a Tarras: Before that, were the Seats for the Lords of the Upper House, and Sacks of Wool for the Judges; before them ten Stages of Seats, extending farther than the midst of the Hall, for the Gentlemen of the House of Commons; at the end of all was a Desk closed about, and set apart for the Lord Lieutenant and his Council.

Monday Morning about seven of the Clock, he came from the Tower, accompanied with six Barges, wherein were one hundred Souldiers of the Tower, all with Partizans for his Guard, and fifty pair of Oars: At his Landing at Westminster, there he was attended with two hundred of the Trained Band, and went in, Guarded by them, into the Hall: The Entries at White Hall, King Street and Westminster were guarded by the Constables and Watchmen, from four of the Clock in the Morning, to keep away all base and idle persons.

The King, Queen and Prince came to the House about Nine of the Clock, but kept themselves private within their Closets, only the Prince came out once or twice to the Cloth of State; so that the King saw and heard all that passed, but was seen of none: Some give the reason of this from the received practice of England in such Cases: Others say, that the Lords did intreat the King either to be absent, or to be there privately, lest Pretensions might be made hereafter, that his being there, was either to threaten, or some otherwise to interrupt the course of Justice: A third sort, That the King was not willing to be accessory to the Process, till it came to his Part, but rather chose to be present, that he might see and understand what Violence, Rigor or Injustice happened. When the Lieutenant entered the Hall, the Porter of the Hall (whose Office it is) asked Mr. Maxwell whether the Axe should be carried before him or no? who did answer, That the King had expressly forbidden it; nor was it the Custom of England to use that Ceremony, but only when the Party accused was to be put upon his Jury. Those of the Upper House did sit with their Heads covered, those of the Lower House uncovered: The Bishops upon the Saturday before did voluntarily decline the giving of their Suffrages in Matters Criminal, and of that Nature, according to the provision of the Cannon-Law, and Practice of the Kingdom to this day, and therefore would not be present: yet withal they gave in a Protestation that their Absence should not prejudice them of that or any other Priviledge competent to them, as the Lords Spiritual in Parliament, which was accepted.

The Earl of Arundel, as Lord High Steward of England, sat apart by himself, and at the Lieutenants Entry commanded the House to proceed. Mr. Bym being Speaker of the Committee for his Accusation, gave in the same Articles which were presented at his last being before the Upper House; which being read, his Replies were subjoyned and read also, the very same which were presented before in the Upper House. Some give the Reason of this, because the Lower House had not heard those Accusations in publick before: others, that the Formality of the Process required no les; however that day was spent in that Exercise.

The Queen went from the House about eleven of the Clock, the King and Prince stayed till the Meeting was dissolved, which was after two. The Lieutenant was sent to the Tower by his Guard, and appointed to return upon Tuesday at nine of the Clock in the Morning. The Crowd of People was neither great nor troublesome, all of them saluted him, and he them, with great Humility and Courtisie, both at his entrance and at his return, therefore let Fame pretend what it please about the Malice and Discontent of the Multitude, *That if he pass the stroak of Justice they will tear him in pieces*, yet I see there is more in Rumor then in Sight and appearance, and in this Report, as in all others of this nature, more is thrust upon the vulgar (who seem as well fearful of Punishment, as exempt from it, for all their great number) than they do justly deserve.

Tuesday

On Tuesday in the Morning he came accompanied, as before, to Westminster; and having stayed in the Exchequer Chamber till nine of the Clock, the King, Queen and Prince came, as before upon the first day.

Pym's first charge.

Then Master Pym, being called for, aggravated the Charge which was given the day before, by a very ample Speech: It is impossible to call to mind all the Hyperboles, the Flashes and superlative Expressions that he used, the main points were:

That it was a Treason far beyond the reach of words, that he the Lieutenant, a native Subject and a Peer of England, the prime Governour of Ireland, the Commander of his Majesties Forces, and a Protestant in Religion should have in such an impious and gross manner, recompensed his Majesties favours, abused his goodness, and drawn all his Dominions into hazard and perill of their Religion, Lives, Goods and Priviledges: That one of these faults alone had been enough and too much for the fulfilling of the exorbitancy and wickedness of any one Man, and that no Punishment could be thought upon sufficient to expiate Crimes of such a Transcendent nature.

The Lieutenant with no less Moderation and Wisdom than the other with heat and passion, spake to his own defence, and that with such a measure of Eloquence and Lively-hood, that his very Enemies were affected with it and do mervailously report of it.

The Lieutenants Answer.

He modestly recounted his Services done to the King and Crown of England, his endeavours for advancement as well of the Honour as Commodity of both Kingdoms in general, but in particular that of Ireland; How he had engreathed and advanced the Kings Revenues there, Restored the Churches maintenance, Suppressed the Outlaws, established obedience to Royal Authority, and impeded the Tyranny and Uturpation of greater ones over the Commons. And for the effecting of all these Actions, he mentioned himself the most weak and meanest Instrument; with a wonderful Prudence, in a middle way, betwixt the affectation of baleness, or dejectedness, and Allegiance.

Three new Articles.

Master Pym, after the close of his Speech, told him that there were three new Articles adjoynd (by an after search) to his Charge, and desired that he might presently Reply to the same:

Whereunto the Lieutenant answered: It was very strange, that after the close of the Process, and when matters were come to be scan'd, and examined by proof, that any new Charge should be given in: Yet lest he should seem to decline the maintenance of his own Innocency, and the just defence of his Honour, he was most willing to hear them and have them alleaged, provided that a convenient time might be assigned him to make his Replies against them, as he had done to the other given in before.

But Master Pym excepted against this, and told him that the House did conceive it to be dangerous to grant any farther Prorogation.

Upon this the Lords of the upper House (who did not think it fit as yet to voice any particular in the audience of the House of Commons) did retire themselves, and after a pretty time of stay, they returned and declared, that they had found the Lieutenants suit to be equitable in desiring of further time for answering, yet seeing the Articles themselves, neither for number nor weight, seemed to be of that importance, but that he might furnish out a present Answer, they thought it fitting to grant no delay.

The Lieutenant then (intreating them to pass by and pardon the weaknes of his extemporary Answers) desired to hear the Articles read which were these.

First, That he had within these two years withdrawn Forty Thousand pound Sterling, from the Exchequer in Ireland, and employed it to his own private uses.

Secondly, That in the beginning of his Government, the Garrisons in Ireland had been maintained by the English Treasury.

Thirdly, That he had advanced Popish and Infamous persons, as the Bishop of Waterford and others, to the prime Rooms in the Church of Ireland.

To the first he answered, That Thirty Thousand Pounds were set apart for the Kings late Service, at his own most special and most peremptory Commands, for which he produced the Kings own Letter, already approved as his Acquittance at the Exchequer board in *Ireland*.

To the second, That at the beginning of that Charge against him, as ever before his time, the Garrisons had been burthensome to the Kingdom of *England*, but that he had so improved it, and settled the Kings Revenue there, that the like is not to be heard in all the times that are by past; For which (if the best endeavours of a Subject may justly expect any reward from his King and Country) he craved leave to think that he rather deserved many thanks, than the least Punishment.

To the third, He attested all the Clergy in *Ireland*, if ever he had taken upon him any particular meddling in advancing their Church-men, or whether he had done any thing concerning such Affairs, but upon the special advice and desire of the best and wisest of their Number: For his part, when he befriended the Bishop of *Waterford*, he conceived of him, as a Man of Integrity and Learning, fit for such an Employment; nor was there then the least suspicion of those monstrous Impieties, wherewith he was afterwards Charged, that he had now justly suffered for the same, and that he hoped they would not lay a necessity upon him to Prophecy and divine of the future Conditions and Departments of Men: For others of the Church, suspected of Popery, he knew none such, but should answer to the Particulars so far as they concerned him, when they should happen to be alleged.

After this the House dissolved for that night, the Kings Majesty and the Prince having stayed all the time, and the Lord Lieutenant was appointed to come thither again on *Wednesday* Morning, at which time they are to proceed to the first Article, to give an Oath to the Witnesses, and to examine all the Proofs whereon the Process was Built.

It will be a very hard matter for him to expect every Mans Testimony, and to give his answers, either for full satisfaction or diminution of all Objections, which way of proceeding will spend at least a Fortnight, if not a greater space of time, yet it is thought the lower House are impatient of delays: The expectations are exceeding various and different, about the event of this great action; some think it will be impossible to escape the many and great accusation laid to his Charge; Others, and that the greater number too, are of opinion that he will be in no hazard of his Life, and that it will not be possible to bring him into the compass of Treason (*quod tam misere cupio ut non credam*) his adverse party is so great, and so far interested both in point of safety and Honour against him, that *Flectere si nequeunt superos*, &c. Nothing will be left unassayed that may accelerate his Ruin.

He hath all this time carried himself courageously, to the admiration (and with all so moderately, that it is to the great satisfaction) of his very Enemies, so that he seems neither dejected with fear, nor to affect boldness with confidence, but to carry himself with that constancy and resolution which his Innocency and brave parts do promise.

The *Irish* Commissioners here, have hitherto abstained from giving in any Remonstrance against the Lieutenant, and do still plead to have an immediate dependance from the King, and not from the Parliament of *England*: There was a Report that the Parliament of *Ireland* had sent a Protestation against the Act made the last year, for the Kings Supply in his Expedition against the *Scots*, as a thing which was violently in part, and in part surreptitiously obtained from them: but I have learned this to be an untruth. I had almost forgotten one passage of Mr. *Pym*, who in the aggravation of the Lieutenants faults, had this Expression, That he was like the Whore in the Proverbs, *He wiped his mouth, and with a brazen face said he had done no evil*.

To this the Noble Lord replied, That he wished his Innocence might not be taken for Impudence, That he hoped shortly to clear himself of all those foul Aspersions which his malicious Enemies had cast upon him; and he was very confident that he should give the Honourable Houses full satisfaction concerning his Life hitherto, and thought of nothing more hereafter than to retire himself from all publick Employments.

Mr. *Pym* gave at this a great shout, and desired the House to take notice what an injury he had done to the Honourable House of Commons, in calling them his Malicious Enemies.

Whereupon the Lieutenant falling down upon his Knees, humbly besought them that they would not mistake him; and withal gave a large Panegyrick of their most just and moderate proceedings, protesting that if he himself had been one of the House of Commons (as he had the Honour once to be) he would not have advised them to have done otherwise against his dearest Friend: but withal told them, that he might justly say he had his own un-friends, which he hoped in time to make known: nor did he all this time speak one bitter word against Mr. *Pym*, though justly incensed, which hath infinitely advanced his Reputation.

I have been a daily hearer of these Proceedings against this great Personage now upon the Stage, therefore do presume I can give a reasonable account thereof: The Book of his Charge

is extant in Print, so it shall be needful for me only to name the Articles as they were examined: and those designed by the House of Commons to be his Accusers; which were these that follow.

The Names of his Accusers.

Pym, Glyn, Maynard, Whitlock, Lord Digby, St. Johns, Palmers, Sr. Walter Earles, Stroud, Seilden, Hamden, &c

One of these began the Speech, the rest after their Colleague hath done, follow in their turn, so that he hath all of them to wrestle against; and yet sufficiently able for them all; though by his agitation his Spirits are much exhausted.

Mr. Glyn, after a large Flourish, on Wednesday, told the Lords, That the Lord Strafford was impeached, not with simple, but accumulative Treason: For though in each particular Article, such a monstrous Crime could not be comprehended, yet when all was conceived in the Mass, and under one view, he should be undoubtedly found the most wicked and exorbitant Traytor that ever was Arraigned at that Barr. He added, That his Charge was for intending to subvert and change the Fundamental Laws, Liberties, and Privileges of both the Kingdoms, and to introduce an Arbitrary and Tyrannical Form of Government. This, he said, could not appear, but by the Fruits, which were either in Expression or Action. The Expressions were four.

Expres. First, That before several Witnesses he had said at York, That the King's little Finger should be heavier, to them, than the Loyns of the Law.

To this the Lieutenant replied, That having spoken sufficiently before to his Justification in general, he would moreover add these few Words, by their Favours: That it strike him to the heart to be attached of such a wicked Crime, by such Honourable Persons; yea, that it wounded him deeper, in regard that such Persons who were the companions of his youth, and with whom he had spent the best of his dayes, should now rise up in judgment against him; yet he thanked God for it, it was not Guilt, but Grief, that so much troubled him. He added, That it was a wonder how he had gotten strength sufficient in such Infirmary of Body, and such Anguish of Mind, to collect his Thoughts, and say any thing at all for himself: But the Almighty God, who knows him to be innocent, had furnished him with some abilities to give Testimony to the Truth, and to a good Conscience: He therefore intreated, that in either in Judgment or in Memory, he should at any time fail, it might be imputed to his great Weakness. And although the Gentlemen his Accusers should seem more ready in their Accusations, than himself in his defence, yet that might not prejudice his Cause, who in very unequal terms, had to do with learned and eloquent Lawyers, bred up a long time and inured to such judiciary pleadings, and whose Rhetorick he doubted not, might present many things to their view in a Multiplying Glass; He told them farther, that for these many years he had been weary of publick service, and that now it was his resolution, after he had vindicated his Honour, to retire himself, and enjoy his much longed for privacy, And yet he could not but tell them so much, that it had been his hearty wish and desire, rather voluntarily to have resigned his places of Honour, like a ripe Fruit fallen from the Tree, than to be violently pulled from thence, as a fruitless and unprofitable withered Branch.

To the Charge of Treason, he said, that under favour, he conceived that although all the Articles contained in his impeachment were verified against him, yet they would not all amount to Treason, neither simple nor accumulative: For (said he) I do not understand by what Interpretation of Law, the diversion of Justice can be called a Subversion of the same, or the exceeding of a Commission, the usurpation of a new Power. To the particular he replied, that his words were clearly inverted, that his expression was, That the little finger of the Law (if not supported by the Royal Power, in granting Pardons for penalties of the same) was heavier then the Kings Loyns. That this was his expression he verified.

First by the occasion, for he spake the words a long time since, to some Men who had lain imprisoned at York, and were then by the Kings favour set at Liberty, whom he incited to thankfulness (by this expression) towards his Majesty.

Secondly, by witnesses produced by him: In the examination of their witnesses he convinced one of them of untruth, by interrogating him where he was when the speech was heard, and how far distant from him, when the Man had replied, that he was twelve Yards from him, he answered that it was impossible for him to hear a Man three Yards off, by reason of a deafness that had held him 14 years; which being found true, the witness was rejected.

Another witness (Sir David Fouls) was brought against him, against whom he excepted as his known and professed Enemy; 'twas told him that he himself did not use to admit of exceptions against Witnesses, and therefore was to expect the same measure.

He replied that Master *Pim* might one day perhaps be atached for perswading the House of Commons to commit the same Crime that was laid upon him as a Charge of Treason: But for all this the Witness was received, because in matter of Treason a Mans Enemy may witness against him *pro Domino nostro Rege*, ' Though, I suppose the Kings advice was never asked for the present. ' This was all that was done for that time.

On *Thursday* he was charged with the second Expression; That he said Ireland was *Thursday*
a Conquered Kingdom, and that the King might prescribe them what Law he pleased. *Express. 2.*

' This they aggravated as a prime note of his Tyrannical will and affection, that would permit no Law to bound the Subject, but what himself and such as he might draw up by sinister informations, from a gracious and well meaning Prince, and if this were admitted, the whole Power and Liberty of the Republique would be utterly lost.

To this he replied, that neither was the Expression in those words nor in that *Staffords*
sence spoken or meant by him; The first part of it (said he) cannot be denied; To *ply.*

the second that he had said only, that the King was the Law-giver, which he hoped none could deny without incurring the Crime of Treason; And that the Kings Sentence was a Law in matter not determined by Acts of Parliament, which all but disloyal Subjects would grant; and that it had ever been his endeavour to have the Liberty of the Subject, and the Royal Prerogative follow both in one Channel: If either of them crossed other, we could expect nothing but a Subversion of the Common-Wealth, either by Tyranny or Rebellion; That the Prerogative was like the first; the Liberty of the Subject like the second Table, either both or neither can be preserved, that in his duty he stood obliged first to the King, as Gods Anointed, then in the second place to his Countrey, if it did not crosse the Regal Power: And therefore hoped that what he had spoken was so far from being Treason, that he thought a thousand such Expressions would not make up one Felony.

On *Friday* the two other Expressions were followed; That he said, He would *Friday.*
not suffer his Ordinances to be disputed by Lawyers, before inferior Judicataries, *Express. 3.*
and that he would make an Act of State equivalent to an Act of Parliament. *& 4.*

To the first he said, that he had often said (more then once) that he would not suffer his Ordinance to be contemned, because, in him, his Masters Honour was wounded.

To the second, He thought a proportionable obedience was due to Acts of State, as well as to Acts of Parliament, otherwise they were made in vain if that both did not bind in one kind.

The Lord *Cork* (though his mortal Enemy) was now examined and admitted, *Corks two Pkts.*
as a Witness, whom in his Deposition he convinced of two shameful oversights:

For *Cork* had declared upon his Oath, that the Lieutenant had caused to be interlined an Ordinance against himself, and had caused some words to be scraped out, which words were notwithstanding still found to be in the Sentence by an authentique Copy under the hand of Sir *Paul Davison*, Clerk to the Council-board of Ireland. *Interlining.*

Then *Cork* alleged, that he had advanced a Groom of his to be a Preacher, *His Groom.*
who by a Testimony from the University of *Dublin* he verified to have been a Master of Arts, ten or twelve years before his advancement, adding withal, that my Lord of *Cork* was an excellent Scholler, who was able to breed such Grooms.

Upon *Saturday*, having done with his Expressions, they canvased the first *Saturday.*
Article about his Actions.

Against the Lives of the Kings Subjects, both in the Case of the Lord Mount- *Charges.*
Norris and also of another of the Kings Subjects, both of whom he had Sentenced to Death by Martial-Law, contrary to all Law, and to the manifest Subversion of the Priviledges of Subjects, *Magna Charta*, and the *Petition of Right*.

To the Lord Mount-Norris his Case, he Replied:

1. That though that Sentence had been unjustly given and rigorously prosecuted against him, yet the greatest Crime that he could be charged withal would but amount to Man-Slaughter, or Felony at the most. *Staffords Reply.*

2. That he hoped (though this were true) to obtain a Pardon from his gracious Master the Kings Majesty, as well as *Ormsby*, and Sir *Jacob Ashley* had lately done, for exercising Martial Law in the Northern Army.

Then he Replied to all the parts of the Charge which were four:

1. That he had exercised Martial Law in time of Peace,

To this he Answered:

1. That all Armies have been, and must be, governed ever by Martial Law.

2. That there is a standing Army in Ireland, and therefore the Case is all one in time of Peace or War; And that the Army might be undone if they should not use Martial Law, but were to expect Remedy for the setting of a Mutiny, or assurance of obedience from the Common Law.

3. That it had ever been the practise of the Deputies, particularly of *Wilmot. Faulkland, Chichester*, yea *Cork* himself, and therefore was no new thing, brought in by him; This he proved, both by the production of the Military Ordinances, and by divers Witnesses who knew Sentences given in that kind by them.

4. That he had a particular Warrant in his Commission for this Power.

5. That in the Lord *Mount-Norris* his Case, he was commanded to exercise the same, by the Kings particular Letter, both which he caused to be read.

Charge. 2. The second Charge was, *That he was both Party and Judge in the Lord Mount-Norris's Cause.*

Straffords Reply. To this he Replied, That he had sitten in Judgment, because he was one *sine quo non*, the Judgment could not proceed without him, but that he was not Judge but Party appeared.

1. Because he fate discovered all the time.

2. Because he refused to give his own Opinion.

3. Because he did not give his Suffrage one way or other.

4. Because he removed his Brother *Sir George* from having hand in the Proces, in regard of interest of Blood.

Charge 3. The third Charge was, *That he proceeded summarily in the matter of the Lord Mount-Norris.*

He Replied.

Straffords Reply. First, that he was not Judge in it, and that the Council of War was to be answerable in the Justification of their own Proceedings.

Secondly, That after a long reasoning he had heard them say, that no delay could safely be granted in Martial Courts.

Charge 4. The fourth Charge was, *That he had not heard the Exceptions made by Mount-Norris against his Witnesses.*

Straffords Reply. To this he answered, as before, That he was not Judge in the Case, and that he remembers no Exceptions made against any Witnesses, To which

he added, that as he had been regulated in his Proceedings, so he had been moderate in the Execution of that Sentence: For though the Lord *Mount-Norris* justly deserved to dy, yet he had obtained him the Kings Pardon, for the saving of his life, and protested that he intended nothing by that Sentence, but in some measure to repair his own Honour, and to give *Mount-Norris* fair reproof, who was known to be of an exorbitant and licentious Tongue and Spirit: Adding, that if the House of Commons would go on the same way with him, and assure him that the issue of his Charge, should be nothing else but to admonish him for the time to come, he would thank them heartily for it, and study amendment in all pretended oversights. And whereas *Mount-Norris* complained that he had jeeringly told him, when the Sentence was passed and pronounced against him: That ere he lost his head, himself would lose his Hand; He answered, that he had been thought to be very insolent and haughty, yet he was never so impertinent to use this expression: If any fault were, it was for undervaluing himself in saying, that ere a hair of *Mount-Norris* should perish, he would lose his hand: And truly (said he) if *Mount-Norris* would say so to me now, even in the worst sense that can be conceived, that ere I died he would lose his hand, I would take it very kindly from him.

For the other man he avouched that he himself had voiced to hang him, both because he was an arrant Thief, and also had fled from his Colours, which by the Common-Law (and to this effect he cited a Statute 20. *Hen. 6.* and 7. *Hen. 7.*) That to fly from their Colours is Felony. He concluded that seeing he was not accessory to the Sentence against *Mount-Norris*, had not fate there as Judge, had a power to keep Martial Courts by his Commission, had not exercised the same till a new Command came from his Majesty, had done no more than ever was practised in Ireland, before his time, and had at least obtained *Mount-Norris* his Pardon, he hoped there was nothing accusablen him but his too remiss and too moderate Proceedings.

Glin's Ejaculation. Master *Glin* bitterly Replied, That he knew the time when the Earl of *Strafford* was no less active and stirring to enlarge the liberty of the Subject, and advance the Reputation of Right, than now he is for extending his own Arbitrary and Tyrannical Government.

Straffords Reply. To this he Replied without the least semblance of Passion, that if at any time he had done the least service to the House of Commons, he thought his whole life well spent, nor could they ever so graciously reward him as to give Commission to that

Gentleman, to express so much before that Honourable Assembly: But withall if ever any such thing was done by him, he intrusted it might now be remembered, and might now serve to overbalance some slight and mean oversights committed by him, which he hoped should never make him guilty of Treason, unless it were Treason for a Man to have no more wit and

Prudente

Prudence than God and Nature had bestowed upon him. And so much for Saturday.

Upon Monday he was charged with the sixth Article: That he had used a Tyrannical Government, not only over the Lives (as appeared by the last) but also over the Lands and Goods of the Kings Subjects, as appeared by this Article: wherein he was Charged to have dispossessed the Lord Mount-Norris of a Tenure of Lands, by a Summary Process before himself, contrary to all Law, and therefore had failed. Art. 6.

1. Against the Act 7 Hen. 6. which provides all matters to be determined by the ordinary Judges.

2. Against the Cautions sent to Ireland by King James, expressly forbidding such power hereafter to be exercised.

3. Against the Kings late Proclamation.

4. Against the practice of all Deputies before that time.

Withal they added, That it was a Tyranny that could not be expressed, to exercise this power over the Persons of the Peers of the Land, and their Goods.

To this he replied, That for his part, in matter of Justice (under favour he spake it) he thought there was no distinction to be made betwixt a Peer of the Land, and one of the Commons, except they did think that either Fear or Faction should do fountehing, which had no place in him. *Swafford's Reply.*

To the Particulars.

1. That the Act of Hen. 6. answered it self sufficiently, both because it excepted the Court of Requests (and that his proceedings were nothing else in Ireland, and also makes an express Reservation of the Kings Prerogative, which he said was his strength, because he derived his Commission from the King, and that the Act was the most express warrant in the world for him.

2. That he had not failed against the Cautions given by King James.

1. Because they were not Charged upon him.

2. Because they were never observed, nor could be by the Deputies to whom they were given; which he proved both by Witnesses and Writings.

3. Because the Caution made rather for him, than against him, in that it contained the Word *Hereafter*, which manifestly implied that the Power had been sometimes before exercised in Ireland; and not only by himself, and therefore thanked them for that Testimony and hint.

4. That though the Cautions had been given to him, yet he had received an express Command from the King his Master, to put that Power in use, causing the Kings Letter, for that purpose, to be read; and professing withal, that he was tender to exercise that Power, till the King (induced by the humble Remonstrance of the meaner sort of people) had most peremptorily, and upon most just Reasons commanded him.

3. That he could not obey the Kings Proclamation five years before it came out, and that he wished from his heart, that they would but respect the Kings Commands and Commissions, with that tenderness of Affection and Obedience as he did his Proclamations.

4. He proved it to be the constant practise of all Deputies that went before him.

It was Objected, That other Deputies had indeed upon Suits of Equity determined themselves, and matters of Debt; but never of Land. *Charge.*

He Replied, First, That the same Authority reacheth as well to the one as to the other: Secondly, That neither he nor they had ever given Sentence, or determined any thing concerning Matters of Inheritance, but only concerning violent intrusion, which fell directly within a Suit of Equity. To which he added, *Swafford's Reply.*

First, The Equity of that Court, that it proceeds upon the same Grounds and Evidences of that of the Common Pleas; and that he had the assistance of two of the Learned Judges, in deciding the Controversie.

Secondly, The Profit of that Court, which dispatcheth the poor in a day or two, whereas the Common-Law would keep them so many years, which they are not able to sustain.

Thirdly, The Necessity of that Court in that Kingdom, which hath been ever governed by that way, and therefore impossible to debar the Natives from it, without great inconvenience, for it would utterly undo them, and none is prejudiced by it but the Lawyers: And therefore seeing that he had done nothing but what was customary, necessary and equitable; commanded to it, and the Sentence just, he hoped rather for Thanks from the State, than a Charge for his ill Deportment: withal, he shewed with what Extortion and Violence the Lord Mount-Norris had taken seizure of that piece of Land, and made the playing of his Game to be very foul: And at last he added, That he had done no more in Ireland, than the Court

of Request in England usually doth; and that the Chancery-Court in Ireland doth the same daily, and the last Chancellor was never Charged (said he) for such Proceedings, though this his Power and Authority was less than mine: But the difference of the Person and his Authority (it seemeth) differeth the Matter. And this was the Business on Monday.

Tuesday.
Charge latter
part of the
8th. Article
Lady Hibor's
Case.

On Tuesday they passed by the 7th. Article, and the two first parts of the 8th. about the Lady Hibor's Land; That he had violently thrust her from her Possession, by this Summary way of Justice, and afterwards Purchased the Land to his own use, by borrowing the Name of Sir Robert Meridith.

In this Probation, the Testimony of the Gentlewomans own Son was used, of the Lord of Cork, and the Lord Mount-Norris, all his back-Friends, or professed Enemies; and yet they proved very little, but what they took upon Hear-

sayes. Their prime Allegation was,

First, That though the Major part of the Council Board had Voted for the Lady, yet the Lord Lieutenant had given Decrees against her.

Secondly, That all was done to his own behoof.

Strafford's Reply. To the First, He produced the Sentence, under the Hand of the Clerk of the Council-Board, Subscribed by the Major part.

To the Second, He attested that he had no under-dealing with Meridith; for the Lady had got her own Lands back from the said Sir Robert Meridith: he also declared at length, with what fraud and deceit the Lady had come to her Lands, and upon what Reasons they were restored.

Charge
Article 9.

After this Article they fell upon the 9th. about the giving of Commission to the Bishop of Down and Connor, for apprehending all such Persons, and presenting them before the Council Board, as contemned the Ecclesiastical Ordinances.

'This was aggravated as a Point mainly against the liberty of the Subject.

To this he Replied,

Strafford's
Reply.

First, He produced the Primare of Ireland's Testimony under his Hand (he being himself sick) that the same course had been used in Ireland before, and that Bishop Montgomery, his Predecessor in the Bishopsick of Methe, had had the same.

Secondly, He shewed the Equity that such assistance should be given to Church-men, who otherwise, because of Papists and Schismatics, either to God or the King, would have no Respect or Obedience given them in that Kingdom.

Thirdly, He proved by two Witnesses, that such Warrants were in use before his time.

Fourthly, He said he had never granted any but that one, and had presently within some few Months called the same in again; what (said he) was the Bishop of Downes carriage in it, he had no reason to answer for; but he presumed the Bishop could give a satisfactory answer for himself, when he should be called in question; and so he concluded that a matter so just, so necessary, so customary and practical before, he hoped should not be Charged upon him as an Introduction of a new and Tyrannical Form of Government: and therefore submitted himself to the Mercy of God, and the Equity of his Peers in his Trial. And this was the Work on Tuesday.

The Ability of this brave Gentleman ravished his Hearers with admiration, though he be infinitely spent both in Body and Mind, by the continued and almost uninterrupted Agitation.

Wednesday.

Charge.

After the Ninth Article was passed against the Commission issued in favour of the Bishop of Down and Connor, Upon Wednesday Mr Glyn proceeded to the Tenth Article. The Charge was, That the Earl of Strafford, having established an Arbitrary and Tyrannical Government over the Lives, Lands and Liberties of the Kings Subjects, his next desire was to make intrusion upon the Crown it self, that by applying to his own use the Publick Revenues, he might be the more enabled to accomplish his Disloyal and Trayterous Intentions: To which end, having by a new Book of Rates, enhanced the Customs, he had gotten by advantage of his Lease, above twenty six thousand pound yearly. This (they added) was a Crime of higher nature than those contained in the preceding Articles; because in those there was some colour or pretext of Justice, here none; those in Particulars, this in General; those against the Subject only, this against the King himself.

For the Proof of the Charge, they produced the Lease of the Duke of Buckingham.

Which was read and compared with that Lease to the Dutchess of Buckingham (which the Lieutenant hath now by Assignment) and some Differences shewn arising to the Sum of two thousand pounds in the Dukes Lease, only the Moiety of concealed and forsaken Goods were

due to him, but the whole Goods to the Dutchess in her Lease: Again, the Kings Ships or Prizes did not pay Custom in the Dukes Lease; in the Dutchesses they did: Again, the Import of the Wines (then belonging to the Earl of Carlisle) was not in the Dukes Lease; in the Dutchess's it was: Lastly, Whereas the Earl of Strafford paid but fourteen thousand pounds *per annum* for the Custom, it was worth to him, as was apparent by the Books of the Exchequer, forty thousand pounds. Witnesses were examined.

First, Sir James Hay, who deposed that the Earl of Carlisle had an advantage of one thousand six hundred pounds *per annum* by his Lease of Wines.

Secondly, The Lord Renelaugh, who deposed that by the inspection of the Books of Accounts, he had found the Customs to be *Anno 1636*. thirty six thousand pounds; *Anno 1637*. thirty nine thousand pounds; *Anno 1638*. fifty four thousand pounds; *Anno 1639*. fifty nine thousand pounds.

With the Proof they concluded the Charge: That notwithstanding the Lord Strafford pretended a great measure of Zeal and Honesty in His Majesties Service, yet it is evident he had abused the Trust put upon him, and by withdrawing so great Sums of Money from the Crown, had weakened the King, prejudiced the Subject of the Protection they were to expect from him, and had been the cause that the extraordinary way of Import and Monopolies had been undertaken for supplying of the Royal Necessity: And that this Act, therefore, ought to be enough to make the Charge and Impenishment of High Treason laid against him.

The Lieutenants Reply was, That he conceived he had given full Satisfaction *Strafford's* to all hitherto brought against him, about that pretended Arbitrary Government. *Reply.* nor would he spend time in vain Repetitions, for the present Article, though in all its parts it were granted to be true, yet he could not perceive, by what Interpretation of Law, it could imply the least Act of Treason; and when it should be directly Charged upon him as a point of Misdemeanor, Oppression, or Felony, he made no doubt but he should be very able to clear himself abundantly in that point also; yet lest any prejudice might stick to his Honour, by these bold Assertions, he was content to step so far out of the way as to give Answer.

First, That he conceived him nothing what particulars in the Lease had pass betwixt the King and the Dutchess of Buckingham, or whether she had obtained a more easie condition than the Duke her Husband; especially seeing that same was granted some years before his coming to that Government; yet thus much he could say, that the Dutchess had paid thirty thousand pound fine; and therefore no marvell her yearly Rent was the less.

Secondly, For the Book of Rates (wherein the chief matter of Oppression and Grievance seemed to rest) the same was there established by the Deputy *Faulkland*, *An. 1628* three years before his going into Ireland, and therefore it was exceeding strange, in his apprehension, how that could stile up in judgment against him.

Thirdly, That he had his Interest in the Customs by Assignment of a Lease from the Dutchess, which was given her before his Government, nor did he ever think it alleged as a Crime of Treason for a man to make a good Bargain for himself.

Fourthly, That not of his own accord, but at the Kings special Command he had undergone that Charge; on hopes that upon the enquiry into the worth thereof, the Customs might be improved for the Benefit of the Crown, and the true value thereof discovered. This he proved by the Lord Corrington, and Sir Arthur Ingram.

Fifthly, That when a new Book of Rates was recommended to him by the Council Board of England, in the time of his Lease, he so far preferred a fear he had, That the Trade of Ireland might thereby be discouraged, before his own Commodity, as he presumed, in his humility, to refuse the said Book of Rates, and tendered his Reasons thereof to the King and Council Board of England.

Sixthly, That he never undertook that the Customs could raise to those great Sums alleged, but though they should, yet his advantage was but small, for that dividing the fourteen thousand pounds he paid to the King, then six parts of eight, which was yearly given in upon Oath (and that procured first by himself) at the Exchequer Board, the other three parts divided amongst four of them which were equal sharers in the Lease, would not amount to any great Sum of Money. And therefore except it were Treason for him to have improved the Kings Revenue, and encouraged the Trade, and refused the new Book of Rates, he could in his own weak Judgment concern none there, nor could he think it a Crime for him to take an Assignment of a Lease, granted before his time, and to insist in the Book of Rates used before his coming over; and therefore was confident the Lords would rather take his Accusation as an extreme of Rhetoric in the Gentlemen his Adversaries, than as a thing spoken in good earnest by them.

Charge. The same day the Eleventh Article, concerning Tobacco, was Charged on by the same man Mr. Glyn, after this manner: That for the farther advancement of his Tyrannical and Avaritious Designs, he had, of himself, established a Monopoly for the restraint of Tobacco in that Kingdom; where they offered Five Particulars to the Proof.

First, That he had restrained the Importation of Tobacco.

Secondly, That in the mean time he had brought in a great quantity himself, and sold the same at exorbitant Prices.

Thirdly, That of Tobacco already imported, he had forbidden any to be sold, but was first sealed by his Officers.

Fourthly, That upon a pretended Disobedience, he had punished a great Number of People, by Seizures, Imprisonments, Fining, Whipping, Pillory, and such like cruel and inhumane Usages.

Fifthly, That by these means he had gained one hundred thousand Pounds yearly.

For Proof hereof,

First, The Proclamation for restraining Tobacco, was read.

Secondly, The Proclamation about the Sealing of the same.

Thirdly, Some Witnesses, who declared that Ships had been restrained from Landing Tobacco.

Fourthly, Others who had known some Tobacco seized on as forfeited.

Fifthly, The Remonstrance of the House of Commons in Ireland, declaring that the Earl had sold 500 Tun of Tobacco, which sold at 2 s. 6 d. per pound, amounts to 100000 l.

They concluded the Charge: That he had sucked up the Blood, and eaten up the Kings Liege-People, and had by this one point of Oppression, raised greater Sums to himself, than all the Kings Revenue in that Kingdom extended unto: And therefore was liable to the Crime of Treason, for troubling the Peace, and bereaving the People of their Goods, who were entrusted into his Care and Government.

The Lieutenant's Reply was,

Stratford's Reply. That his most secret Thoughts were conscious of nothing but of a sincere intention and endeavour to promote and advance the welfare of that Kingdom; and withal he conceived (by their leaves) that nothing in that Charge could have the least reference to Treason; yet as he said before, for removing of all prejudice, he was content to answer:

First, That long before his coming to Ireland, the same restraint had been of Tobacco, and the same Impost of eighteen pence per pound, enjoined by King James.

Secondly, That at that time the Tradesmen for this Commodity paid but twenty pounds a year to the Crown for the Impost, but now 400 l.

Thirdly, That the Parliament in Ireland 1628, had Petitioned to have this Impost settled by an Act of State for ever afterwards, as a part of the Revenue of the Crown.

Fourthly, That he had express Command from the King, for issuing those Proclamations, and therefore could not imagine more danger in them, than in others for Monopolies in England, in the worst sense.

Fifthly, That the Proclamations were not put forth by himself alone, but by the whole Council-Board of Ireland.

Sixthly, That for the Contract of Tobacco, he was so tender of it, that it was sent over hither, and seen and approved of by the Council-Board of England, before it was consigned to in Ireland.

For the Proclamations; he told them it was his own opinion (and if he failed in it, he humbly craved pardon, and hoped that it should not be treason to have no more Judgement than God had bestowed on him) that the King was induced by God, with a power, to make temporary Laws, and cause the same to be promulgated for the good of his People, upon sudden emergent occasions to which Laws obedience is due, till they be abrogated by ensuing Parliaments; that he restrained no man from importing Tobacco, who was willing to pay the appointed Impost; that for his part, he had never traffick in all his time, in that kind, nor had any part with the Contractors: And if any Tobacco was seized on, it was upon contempt of the Proclamations; And if any Person were censured to the Pillory, or Whipping, it was for known perjury, the ordinary and usual punishment in such a Case; concerning the Tobacco imported (he said) no consideration was taken of the prices given for the Tobacco beyond Seas, of the Kings Revenue of four thousand pound, of the Merchants pains and danger, bringing the same home: For his part, if any advantage were made, surely it was not his, nor could he annul every Contract or Lease made by the King: And therefore, seeing his interest was none, he had done nothing but at the Kings directions, and at the advice of the Council-Board; seeing the same Impost was in King James his time, and

and Petitioned for by themselves in *Ireland*: He hoped the carriage in the business should be so far from a Crime of Treason, that it should rather be thought no Crime at all. So much for *Wednesday*.

Upon *Thursday* he was Charged with the twelfth Article, concerning Flax, by *Thursday* *Mr. Master Maynard*, on this manner: That the Flax, being the native and principal *sic. 12.* Commodity of that Kingdom, was by him (the Lieutenant) restrained, and the Subjects put to that which was unknown, yea impossible for the Irish to make the same into *Maynard*. Tarn, here they complained of three things.

First, That by Proclamation he had restrained selling of Flax.

Secondly, That he had ordered the making of Tarn of such and such lengths and numbers of Threads.

Thirdly, That the Native Irish, being unacquainted with such Customes, upon a pretended disobedience, had all their Flax and Tarn seized on to his use, whereby a great many Families were reduced to such penury that they died, by great numbers in the Fields for want of Food.

For proof hereof they brought:

First, The Proclamation about the Restraint.

Secondly, The Warrant for seizing the forfeited goods.

Thirdly, The Execution of this Warrant, proved by Sir John Clowworthy, Lord Ranelagh.

Fourthly, The Remonstrance from the House of Commons, in *Ireland*, that upon the rigorous course and execution of this Warrant, many persons died for want of Food. They concluded the Charge therefore: *Though the Article did not individually imply Treason, yet it did make very much for the Accumulation of Treason.*

The Lieutenants Reply was,

That as before he would and must ever repeat it, that nothing was in the Charge *Staffords Reply.* that contained Treason, to the matter it self he answered.

First, That the Proclamations issued forth, were grounded not only upon convenience, but upon necessity, because that except some way had been taken for ordering of Yarn, the Merchants had absolutely given over the Linnen-trade in that Kingdom.

Secondly, That the Council-Board was as lyable to the Charge as himself, amongst whom were, at that time, the Primate of *Ireland*, the Arch-Bishop of *Dublin*, Chancellor *Loftis* and the Lord *Mount-Norris*, all Subscribers to the Proclamation, men to them of known integrity and Judgment.

Thirdly, That nothing was more common, then for the Council-Board of *Ireland* to give one Orders for reducing the Natives to the English Customes, and to fine them for drawing their Horses by the tails, during their Corn, and such like, and he conceived that to be a thing of the same nature.

Fourthly, That the special thing inducing him to it was, because he perceived the trade of Wool to increate much in that Kingdom; He dissuaded by all means the making of Woollen Cloth, because of the infinite detriment that might happen thereby to the Kingdom of *England*, and therefore thought this the best way to encourage the way of Linnen Cloth; For the Warrant to seize upon the goods, he affirmed the same to be necessary, because there should be no contempt to Proclamations; But that any part thereof did accrue to him, he flatly denied; If any rigour was used in the execution, he said not he, but his Officers were to answer for it; for this might happen in the most just and necessary commands, nor was there ever any complaint presented to him of any such matter; For his part he had lost thirty thousands pounds in the Manufacture, established by himself for the encouragement of others.

To that, that Persons died by this means, he Replied, that it was more then ever he heard of or could think possible, yea that he was cleared by the allegation it self, which saith that the same happened since his coming from *Ireland*.

To the Remonstrance of *Ireland*, he conceived that a charge was but a slender proof of a Charge, and that especially upon Interrogatories, not upon Oath, seeing that priviledge was not due to the House of Commons, neither here, nor there; that he might say it in truth and modesty, he deserved much better of that People, and might take up that in the Gospel. *For which of all my good Deeds, &c.* Yet he hoped to be better understood shortly, both here and there, and for his part, though his pursuit had been very hot, yet God was his Witness he never intended to take the least Impression of Revenge, for those discontents and affronts which had been eagerly put upon him, or to carry any thing hence with him from that Bar, where so many foule Aspersions had been unjustly thrown upon him, but only *Gratias Agere*.

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The Lieutenants Reply was,

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Secondly, That the Council-Board was as lyable to the Charge as himself, amongst whom were, at that time, the Primate of Ireland, the Arch-Bishop of Dublin, Chancellor Loftis and the Lord Mount-Norris, all Subscribers to the Proclamation, men to them of known integrity and Judgment.

Thirdly, That nothing was more common, then for the Council-Board of Ireland to give one Orders for reducing the Natives to the English Customes, and to fine them for drawing their Horses by the tails, during their Corn, and such like, and he conceived that to be a thing of the same nature.

Fourthly, That the special thing inducing him to it was, because he perceived the trade of Wool to increate much in that Kingdom; He dissuaded by all means the making of Woollen Cloth, because of the infinite detriment that might happen thereby to the Kingdom of England, and therefore thought this the best way to encourage the way of Linnen Cloth; For the Warrant to seize upon the goods, he affirmed the same to be necessary, because there should be no contempt to Proclamations; But that any part thereof did accrue to him, he flatly denied; If any rigour was used in the execution, he said not he, but his Officers were to answer for it; for this might happen in the most just and necessary commands, nor was there ever any complaint presented to him of any such matter; For his part he had lost thirty thousands pounds in the Manufacture, established by himself for the encouragement of others.

To that, that Persons died by this means, he Replied, that it was more then ever he heard of or could think possible, yea that he was cleared by the allegation it self, which saith that the same happened since his coming from Ireland.

To the Remonstrance of Ireland, he conceived that a charge was but a slender proof of a Charge, and that especially upon Interrogatories, not upon Oath, seeing that priviledge was not due to the House of Commons, neither here, nor there; that he might say it in truth and modesty, he deserved much better of that People, and might take up that in the Gospel. *For which of all my good Deeds, &c.* Yet he hoped to be better understood shortly, both here and there, and for his part, though his pursuit had been very hot, yet God was his Witness he never intended to take the least Impression of Revenge, for those discontents and affronts which had been eagerly put upon him, or to carry any thing hence with him from that Bar, where so many foule Aspersions had been unjustly thrown upon him, but only *Gratias Agitur.*

Charge by Mr. Palmer, latter part of the 15. Article seizing and laying Souldiers upon the Subjects.

The same day a fresh man (Master Palmer) entered the Lists against him, who having past by, for want of proof the thirteenth, fourteenth, and part of the fifteenth Articles, insisted only upon the second part, for giving Warrant to Serjeant Savil, for seizing and laying Souldiers upon the Subjects, he Charged thus. That the Lord Strafford, having by a Tyrannical Power inverted the ordinary course of Justice, and given immediate Sentence upon the Lands and Goods of the Kings Subjects, under pretence of disobedience, had used a Military way for redressing of the Contempt, and laid Souldiers upon the Lands and Goods of the Kings Subjects, to their utter ruine. This Article (he said) of it self did contain an individual Treason, so that if there were no more than this, it were more than sufficient to convince him of his Impeachment.

Here he offered two things,

First, The proof of the point.

Secondly, By what Statute this Act of Tyranny, directly and by it self, implied Treason: For the first, Serjeant Savil was called, who produced the Copy of the Warrant upon which he had seized the Souldiers.

Straffords Reply. At this the Lieutenant rose, and humbly intreated the Lords no evidence should be received against him, upon an Article of such importance, but what might be thought authenticque, and such a one, under favour, he conceived that Copy not to be.

First, Because no transcript, but the Original only, can make faith before the Kings Bench, in a matter of Debt, therefore far be it from them to receive a most slender Testimony, in matter of Life and Death, before the supreme Judicatory of the Kingdom.

Secondly, If Copies be at any time received, they are such as are given in upon Oath, to have been compared with the Originals, which are upon Record, such an one was not that Copy.

Glins Speech. It was Replied by Master Glin (for all of them spake as occasion served) that the House had but the day before admitted Copies as Evidences, much more should they do this, when it was prosecuted by the Officer himself, who best knew it, having executed the same.

Straffords Reply. To this the Lieutenant answered, that all other Copies ought to be received upon Oath, to have been compared with the Original, as right reason requireth, but that this was not so; and for the Officer himself producing it, that was the best Argument he could use, why it should not be admitted. For (said he) Master Savil may be charged with Treason, for seizing Men of War upon the Kings Subjects, he hath nothing for his defence but a pretended Warrant from me: Now what he swears to my prejudice, is to his own advantage, nor can a Man by any equity in the World, be admitted to testify against another, in suam justificationem.

Serjeant Savils Copy of the Commission rejected. The point seemed exceeding weighty, and in effect was the groundwork of the whole Article, which not proved, nothing could convince him to have been accessary to the Consequence. The upper House therefore adjourned themselves, and went up to their own Court, and after a very hot contestation between the factions, and above an hours stay, they returned and declared that the Lords after mature deliberation, had resolved that the Copy should not be admitted, and desired them to proceed to other proofs, which after a little pause they did.

First, the Lord Renelaugh affirms, that he heard of such a Warrant, and knew sometimes three, sometimes five Souldiers killed by it.

Secondly, Master Clare declares the very same.

Thirdly, Another Depoeth he had seen such a Warrant, under the Deputies Hand and Seal: And so much for the proof.

For the Statute, they alleaged one of Edward. 3. 6. that whosoever should carry about with them English Enemies, Irish Rebels, or Hooded Men, and sell them upon the Subject, should be punished as a Traytor. Another of Hen. 6. 7. That whosoever should sell Men of War, in his Majesties Dominions, should be thought to make War against the King, and punished as a Traytor. They concluded, It was evident the Lord Strafford had incurred the penalty and breach of both the Statutes, and therefore desired the Lords should give out Judgment against him as a Traytor.

The Lord Lieutenants Reply was

Straffords Reply. That in all the course of his Life, he had intended nothing more, than the preservation of the Lives, Goods and welfare of the Kings Subjects, and that he dared profess, that under no Deputy, more than under himself, had there been a more free, and un-interrupted course of Justice.

To the Charge he answered.

First, That the Customes of Ireland differed exceedingly from the Customes of England, and was clear by Cooks Book, and therefore, though selling of Men might seem strange here yet not so there.

Secondly,

Secondly, That even in *England* he had known Souldiers pressed upon men, by the presidents of *Tork* and *Wales* in case of known and open Contempts, and that both in point of Outlary and Rebellion, and also even for sums of Debt between party and party, there is nothing more ordinary than these Seissings to this day in *Scotland*, whereby the chief house of the owner is seized upon.

Thirdly, That to this day there hath been nothing more ordinary in *Ireland*, than for the Governours to appoint Souldiers, to put all manner of Sentences in execution, which he proved plainly to have been done frequently, and familiarly exercised in *Grandisons*, *Faukland's*, *Chichesters*, *Wilmot*, *Cork*, *Evers*, and all preceding Deputies times: And had even for Outlaries, for the Kings debts in the Exchequer, of Collection, of Contribution money, and (which comes home to the point) for perfect sums of money between party and party, so that he marrailed, *gastronthe*, or with what boldness it could be called an Arbitrary Government lately brought in by him.

To this the Lord *Dillon*, Sir *Adam Loftus*, and Sir *Arthur Teringham* deposed; the last of whom told, that in *Faukland's* time he knew twenty Souldiers Seised upon a Man for refusing to pay sixteen shillings sterling.

Fourthly, That in his instructions for executing his Commissions, he hath express warrant for the same, as were in the instructions to the Lord *Faukland* before him, both of which were produced and read.

Fifthly, That although all these presidents were not, yet it were not possible to govern the Kingdom of *Ireland* otherwise, which had been from all times accustomed to such summary proceedings.

Sixthly, That no Testimony brought against him can prove that erer he gave warrant to that effect, and for the Deeds of the Serjeant at Arms, he did conceive himself to be answerable for it.

As for the Acts of Parliament, he had reserved them to the dispute of his Lawyers, but was content to say thus much for the present.

First, That it is a ground in the Civil Law, that where the King is not mentioned, there he cannot be included. But (with all distance to his sacred Person be it spoken) he conceived himself to be in his Master the Kings place (for so his Commission did run) in that Kingdom of *Ireland*.

Secondly, The words of the Statute are not applicable to him, for God knows, he never went about in person to lay Souldiers upon any of the Kings Subjects.

Thirdly, That the Kings own Souldiers, enquiring in a customary way obedience to his Orders, could in no construction be called *Irish Rebels*, *English Enemies*, or Hooded-men.

Fourthly, That the use and custom of the Law was the best Interpreter thereof, and for that he had already spoken enough.

Fifthly, That it favoured more of prejudice than equity, to start out such an old Statute against him, and none others, though culpable of the same Fact, to the overthrow and ruine of him and his Posterity.

Sixthly, That (under favour he conceived) for any *Irish Custom*, or upon any *Irish Statute*, he was to be judged by the Peers of *Ireland*.

Seventhly, That Statute, of what force soever, was repealed.

First, By the Tenth of *Henry the Seventh*, where it is expressly declared, nothing shall be reputed Treason hereafter, but what is so declared by the present Statute, now not a word there of any such Treason.

Secondly, By the eleventh of *Queen Elizabeth*, where expressly power is given to the Deputy of *Ireland*, to seize and lay Souldiers, although the same be reputed Treason in any other.

To the Statute of *Henry the Sixth*, he Replied, that a slender Answer might serve: He hoped that no man would think him so inconsiderate to war against the King of *Britain* and *Ireland*, by the selling of five Souldiers, that he had been charged by many for taking Arms for the King, but to that time, never for taking Arms against him; and that he heartily wished that no man in all his Majesties Dominions, had more practices with Rebels and Rebellious Designs against the King than himself.

So much for *Thursday*.

At the Close he desired the intermission of a day, that he might recover his Spirits and Strength against the next Quarrel, and with some difficulty obtained rest till *Saturday*.

Upon *Saturday* Mr. *Palmer* proceeded to the sixteenth Article, and Charged thus: *Saturday*. That the Lord *Strafford*, having established a Tyrannical and Independent Authority, Charge. by giving Summary Decrees and Sentences, had deprived the Subjects of all just Remedies, Article. for in that Kingdom there was none supreme to himself, to whom they might appeal: 18. by Mr. and lest their just grievances might be made known to His Majesty, he had obtained Palmer. a Restraint, That no complaint should be made of Injustice or Oppression done there, till the first Address had been made to himself, and that no person should come out of that Kingdom but upon Licence obtained from himself.

For Proof of this,

First, the Instructions were read, whereby that Restraint was permitted.

Secondly, the Proclamation, That all Noblemen, Gentlemen, Undertakers, Officers, or other Subjects that should resort into that Kingdom, should not come from thence without a Licence from him.

Thirdly, That he had restrained the Earl of *Desmond*, because of a Suit in Law depending between the Earl and himself, till Publication of the same was passed.

Fourthly, That the Lord *Roch*, being informed against before the Star-Chamber, he would not Licence him to come into this Kingdom, till the Sentence was passed against him.

Fifthly, That one *Marchatee*, having pretended a mind to travel, was denied a Licence.

Sixthly, That the whole Committee for the Parliament, was restrained this last year by Deputy *Waniford*, which they said might be interpreted to be his Fact, both because they had such intelligence the one from the other, as also by the Proclamation issued by him before.

Seventhly, That one *Parry*, Servant to Chancellor *Lofius*, was fined five hundred pounds at his return, for departing *Ireland* without Licence.

Eighthly, That the Irish Remonstrance complained of this, as the greatest Innovation and Thralldom put upon them since the time of the Conquest.

They concluded the Charge; *That by this means, having taken of that Intelligence which should be between the King and his People, and having deprived them of that Remedy which in Reason they might expect from so just and so gracious a Prince he had taken upon him a Royal and Independent Power, and had faulted highly both against King and State.*

The Lieutenants Reply was,

Siraffards That he hoped to make it clear, that he had done nothing in that particular, but
Reply. what was usual, necessary and just, and that he should be very well able (by the Grace of God) not only of that, but of all other his publick Actions, to give a reasonable Account, though not be free from much weakness, yet certainly from all Malice and Treason.

To the Particulars.

First, For Instructions laid upon him, he was not so much Chargeable as those of the Council of *England*, whereof there was a great many present who could witness their Commands; but left any thing should seem unjustly enjoyed by them, or embraced by him, he desired that the Reasons of their Instructions might be read: which were; *That it were Injustice to complain of Injuries, of Oppression done in that Kingdom, till first the Deputies Judgment was informed, and Trial made of his Integrity; That it would much discourage the Admirers of State there, and expend the Monies of that Kingdom, if upon every trifling business Complaints should be admitted in England: And that if Justice were there denied by the Deputy, it should be lawful for any man to come over.*

Secondly, For the Proclamation: That the same was builded upon the Statute of that Kingdom, the 25 of *Hen. 6.* which contained the same Restraint verbatim.

Thirdly, That *Anno 1628.* the Agents for the *Irish Nation* had Petitioned for the same from the King.

Fourthly, That the Deputy *Faulkland* had set forth the same Proclamation.

Fifthly, That he had the Kings express Warrant for it, *Anno 1634.* which was read.

Sixthly, That he had received the Warrant in *January*, yet the Proclamation issued not out till *September* after.

Seventhly, That the whole Council-Board of *Ireland*, had not only condescended, but also pressed him to it.

Eighthly, The Necessity of the Kingdom required the same; for, if the Gentlemen had the Ports open to go to *Spain*, and their Scholars to *Doway*, *Rhenus* or *St. Omers*, it were likely that at their return they would put fire both in Church and State, and produce very sad Events, by practising to distemper both.

Ninthly, He conceived that the King, as great Master of the Family, might restrain whom he pleased from departing his Kingdom without his privy, and here it was not lawful for any to go from *England* without Licence, how much more necessary was this from *Ireland*?

To the Proofs he answered,

First, For *Desmond*, he granted he was Restrained indeed, but not for any Suit of Law betwixt them, but because at that time he stood Charged with Treason before the Council in *Ireland* for practising against the Life of one *Sir Valentine Cooke*.

Secondly, For the Lord *Roch*, he had often-times marvelled with what reason the man at that time could seek a Licence, seeing he was a Prisoner for Debt in the Castle of *Dublin*; and if he had granted a Licence to him then, it had been a far more just Charge of Treason than now.

Thirdly, For *Marchatee*, he was afraid of his going to *Spain*; and if he had intended to go for *England*, and complain of himself, he would not have refused him Liberty, as he never did to any.

Fourthly,

Fourthly, That the Committy of *Irish* was not restrained by him, and therefore did not concern him at all

Fifthly, That for *Parry*, he was fined indeed, but that it is expressly said in his Sentence, that it was not for coming over without Licence (as is suggested) but for sundry contempts against the Council-Board in *Ireland*.

Sixthly, That he had Replied in the last Article, a Remonstrance was no proof at all; He concluded that he hoped the least Suspicion of Treason could not accrue to him from the Article; For Oppression or Misdemeanour, when it was laid to his Charge, he made no doubt but he should be able to answer it.

The same day a new man was hurried out against him, (Mr. *Whitlock*) who having past over the 17 and 18 Articles, resteth on the nineteenth, about the Oath administered to the *Scots*, in *Ireland* and Charged thus:

That it was the height of his Tyranny, not only to dominier over the Bodies, but also over the Consciences of Men, so which purpose he had enjoyed an Oath to the *Scots* in *Ireland*, and because some out of tenderness of Conscience did refuse to take the same, he had fined them in great Sums of Money, Banished a great number from that Kingdom, called all that Nation Traytors and Rebels, and said, if ever he returned home from *England*, he would root them out both Stock and Branch.

For Proof of this.

First, Sir *Jammy Mountgomery* was produced, who declared at large how that Oath was contrived.

Secondly, Sir *Robert Maxwell*, of *Orchiardon*, who spake to the same purpose.

Thirdly, Sir *Jo. Clowrthy*, who declared that a great number had fled the Kingdom for fear of that Oath.

Fourthly, One Mr. *Samuel*, who deposed, that upon the tenth of *October*, 1638: He heard the Deputy say these words, that if he returned, he would root them out Stock and Branch.

They Concluded, That this was a point of the most Tyrannical and Arbitrary Governments, that before this time was ever heard of, not only to Lord it over the Fortunes, but also over the Souls of Men. And that it rested only in the Parliament, which hath the Legislative Power to enjoin Oaths: And that therefore this was one of the chief points he had done against the Privileges and Liberty of the Subject.

The Lieutenant Replied:

That every new Article acquainted him with a new Treason, charif he had done any thing in all his life acceptable to the King and Countrey, he conceived it to be this. To these Particulars:

First, He desired the Lord would call to mind the condition of those times, no man (pointing to my Lord *Steward*) knows better than your Lordship; who had then the chiefest place in his Majesties Service; I would be very sorry to rub (said he) old Sores, especially seeing I hope things are in a fair way to a firm Peace, and I wish that I may not be deceived; that is, that it may be so, only thus much I may say, we had then greater fears and apprehensions in *Ireland*, lest the *Scots* in the Kingdom (who were above one hundred thousand Souls) might have joyned with their Country-men at home, for the disturbance of our Peace, mean time we detected a Treason of Betraying of the Castle of *Knockfergus*, to a great Man in that Kingdom (whose name I now spare) by one *Freeman*, who upon the discovery was executed.

The Council-Board therefore in *Ireland* resolved to prescribe the *Scots* an Oath, whereby they might declare their discontent at their Countrey-mens proceedings, and oblige themselves to the Kings Service; but while we were about this; they, of their own accord, come to *Dublin*, to Petition for it, and took it with a wonderful alacrity and heartiness, so that it is a marvelous falsehood for any man to say it was invented, or violently enjoyned by me.

Secondly, about the same time, the same Oath *ordained* was by the Council of *England* prescribed to the *Scots*, at *London* and else where, which was no small encouragement to us in *Ireland*.

Thirdly, I had (said he) which I never shewed, because I had no need before this time, a special Warrant from the King, all Written with his own hand to that effect; and when the King commands a matter not contrary to Law, truly I (said he) do conceive it both contrary to Law and Conscience, not to yield him all due obedience. For the Proof brought against him, there was nothing seemed to be of any moment but the words.

For the first words, That he had called all the Nation Rebels and Traytors, He said there was no proof at all, nor indeed could there be any, for if I had said it (quoth he) I had been perfectly out of my Wits; And, he thanked God, such irrational-speeches used not to escape him: He honoured that Kingdom very much, because it was the native soil of our

our dread Sovereign, his gracious Master, and because he knew a part, yea (he hoped) the greatest part of them had been, and ever will be as loyal and dutiful to the King, as any other of his Subjects; and of those too who had subscribed that unhappy combination, he knew a great many had done it against their hearts and wills, and would be ever ready upon occasion to remonstrate the same, by adhering to the Kings service: So that this accusation was nothing but a wrestling and perverting his words and meaning, of purpose to make him odious, and irritate a whole Nation against him.

For the other words, they were proved only by one Witness, which could make no sufficient faith, and that Witness too he would evince, if not of perjury, yet of a notable mistake; For he had sworn positively that he had spoken these words the tenth of October, whereas he was come out of Ireland into England the twelfth of September before, and was at London the one and twentieth.

For those that had fled the Kingdom because of that Oath he knew none such; and if they did, they fled into Scotland, which might sufficiently argue their Intentions and Resolutions; For his part, if they were not willing to give that Testimony of their Loyalty to their Prince, although he had known of their Departure, he would have been very loath to have kept them against their wills, but should have been gladly rid of them, and have made them a Bridge to be gone rather than stay.

Monday Article 20 the next Upon Monday Master Whitlock Proceeded to the 20 Article, and told him, that because the matter was intervenient, & consimilis nature, they had resolved to joine the five next Articles together, because all of them tended to one point or period, that is, to shew what bad Design he had to have subdued the Kingdoms both of Scotland and England by force of Arms, and to reduce them to that arbitrary Government he had lately introduced into Ireland.

The Lieutenant intreated that they would proceed according to the order prescribed by the House, which was Article by Article. He said five Articles were many, the matter weighty, his Memory Treacherous, his Judgment weak.

Glynne Honey Comb It was bitterly replied my Master Glyn, that it did not become the Prisoner at the Bar, to prescribe them in what way they should give in their Evidences.

Stretfordes Re The Lieutenant modestly answered, that if he stood in his place, he would perhaps crave the like favour, unless his abilities did furnish him with more strength than he could find in himself; for his part he was contented they should proceed any way, always provided they would grant him a competent time for Replying.

Then Whitlock went on and told the Lords, that something in those Articles concerned the Scottish, something the English Nation, that which concerned the Scottish, he reduced to five heads.

First, That the Deputy had said at the Council-Board, that the Scots demands contained sufficient matter to persuade to an offensive War.

Secondly, That the same demands did strike at the Root and Life of Monarchical Government, and were only to be answered by the Sword.

Thirdly, That he had caused some Scottish Goods and Ships, to be seized on in Ireland.

Fourthly, That he had engaged the Irish Parliament, by their Declaration, in that War against the Scots.

Fifthly, That by all possible means, he had put bad thoughts and Suggestions into his Majesty against his Scottish Subjects, and laboured to make a National quarrel between them and England, which, if the Kings Piety, and the Prudence of better affected Statesmen had not prevented, could not have been fended up, again without much Blood.

Concerning England, his Speeches were either before or after the Parliament.

First, Before his Creature and Bosom friend Sir George Ratcliff, he had said to Sir Robert King, when he was doubting how the King might have Monies to pay his Armies, that the King had four hundred thousand pound in his Purse, thirty Thousand Men in the Field, and his Sword by his side, and if he wanted Money afterwards who will pity him.

Secondly, That his Brother Sir George Wentworth had said to Sir Robert Bevington, upon the dissolution of the last Parliament, that seeing the English would not grant supply to the King, it seems they were weary of their Peace, and desired to be conquered a second time.

Thirdly, That he himself, upon a discourse with the Primate of Ireland, had said, that he was much of the mind of those English Divines, who maintained it lawful for a King, having tried the affection and benevolence of his People, and then denied their help, upon an inevitable necessity and present danger of the Kingdom, that he might use his Prerogative for his own supply, and the defence of his Subjects.

Fourthly,

Fourthly, To the Lord Conway, in a Discourse he had said, That if the Parliament (meaning the last Parliament) should not grant a competent Supply, that then the King was Acquitted before God and Man, and might use the Authority put into his hands.

Fifthly, That he did say at the Council Board, If the Parliament should deny to help the King, he would take any other way he could for his Majesties Service and Assistance.

His Expressions after the Parliament were two;

First, That the Parliament had forsaken the King, and that the King should not suffer himself to be over-mastered by the forwardness, obstinacy and stubbornness of his People.

Secondly, That if his Majesty pleased to employ Forces, he had some in Ireland that might serve to reduce this Kingdom.

The Proofs for the Scots Particulars were these:

First, The Lord Traquiere, who was indeed very favourable to the Lord Lieutenant, and spake nothing to his Disadvantage, but what was scrued from him, with much difficulty he told them, That when he gave in the Demands, he heard him say, that it was high time for the King to put himself into a posture of War, but that first, all the Council of England said the same as well as he: secondly, That it was a double Supposition; 1. That the Demands were truly given in. 2. That there was no other Remedy left but Arms, to reduce them.

Secondly, The Earl of Morton's Testimony (being sick himself) was produced, and it was one and the same with the Article.

Thirdly, Sir Henry Vane was examined, who declared, That he had heard the Lieutenant to advise the King to an Offensive War, when his own Judgment was for a Defensive.

Fourthly, The Testimony of the Earl of Northumberland was produced, which was the very same with Sir Henry Vane's.

Fifthly, The Treasurer of England deposed the same with Traquiere.

Sixthly, One Beane, from Ireland, told, That he had known Ships seized on there; but by whose Procurement or Warrant he knew not.

To the Articles about England.

First, Sir Robert King and the Lord Renelaugh deposed the same, that Sir Robert King and the Lord Renelaugh had heard Sir George Ratcliffe speak those words in the Article.

Secondly, Sir Robert Barrington, of Sir George Wentworth.

Thirdly, The Primate's Testimony (who is sick) was the same with the Article.

Fourthly, The Lord Conway deposed the same with the Article.

Fifthly, Sir Henry Vane deposed, He had heard those Words spoken at the Council-Board.

For the Words spoken after the Parliament: To the first,

Sir Tho. Jermyn, Lord Newburg, Earl of Bristol, Earl of Holland were Examined; Bristol did mince the Matter; but Holland's Testimony was express, because of the exceeding great Love he carried to the Man.

For the last, which were the most dangerous Speeches (about the reducing of this Kingdom) there was only Sir Henry Vane's Testimony, who declared only thus, That he had either those Words or the like.

Here some of the Lieutenants Friends shewed themselves.

1. The Lord Savil, who desired of Sir Henry Vane, to know whether he said *their*, or *this*, or *that Kingdom*; and withal said, it was very hard to condemn a man for Treason upon such petit Circumstances.

2. The Earl of Southampton desired to know whether Sir Henry Vane would swear those words positively or not? Sir Henry Vane said positively either them or the like: The Earl replied, that under favour, those or the like could not be positive.

3. The Earl of Clare desired to know what could be meant by *this Kingdom*; for his part (he said) he thought it meant of the Kingdom of Scotland, to which the Word *this* might very well be relative, that Kingdom being only mentioned in the preceding Discourse. And that he was the more ready to be of that Opinion, because he could not see by what Grammatical Construction it could be gathered from his words, that he meant to reduce England, which neither then was, neither is now (God be thanked) out of the way of Obedience, nor upon Rebelious Courtes.

They at last concluded the Charge, That the Words were so monstrous, that to aggravate them was to alay them; and therefore they would simply leave them to the Judgment of the Lords.

The Lieutenant's Reply was;

That though the heaping up of those Articles had put him to a great Confusion, Strafford's yet he would endeavour to bring his Answer into the best Method he could, and Reply. first he would reply to the Proo^s, then add something in general for himself, in what a hard talking and lamentable Condition he was to have his private Discourses, his most intimate and bo-

some friends search'd and sifted to the least Circumstance, that he might seem guilty of that which, by God's assistance, he should never be.

To the Lord *Traqueres*, and the Deputies Depositions, he thought their Proofs did not much stick upon him; for upon the Suppositions, first, That the Demands were true; secondly, That they were not justifiable; thirdly, That no other Course could prevail: He could not see what other Advice he could possibly give the King, than to put himself into a posture of War, especially seeing then there was frequent Reports of the *Scots* invading or entering into *England*, nor was he of any other mind than all the rest of the Council-Board.

For that of *Morton's*, he doth not positively remember the Words, but if the Demands were read, perhaps they would imply nothing less; and if so, how otherwise to be answered but by the Sword; all other Means being first allayed, which is ever to be supposed?

For Sir *Henry Vane's* and *Northumberland's* Testimony, about perswading of an Offensive War, he said, he remembered it very well, and thought it as free for him to give his Opinion for an Offensive as they for a Defensive War: Opinions (said he) if they be attended with Obstinacy or Persecution, may make an Heretick, but that they ever made a Traytor, he never heard it till now; nor (under favour) should I be an Heretick either (said he) for as I was then, so am I now, most willing to acknowledge my Weakness, and correct my Errors, whereof no man hath more, or is more sensible of them, than I my self; yet, if that Opinion of mine had been followed, it might perhaps have spared us some Money (said he) and some Reputation too, of which we have been prodigal enough.

For the last, about the Ships, it proves nothing but he would willingly confess, that some Ships were there detained, and that by himself, and his own Direction, as Vice-Admiral of *Connaught*, but it was at the Command of the Lord Admiral the Earl of *Northumberland*, and produced his Letter to that purpose.

To the *English* Proof, He marvelled much how Sir *George Ratcliff's* Words could be put upon him; Sir *George* (though alledged to be his Bosom Friend) yet had thoughts of his own, and might have some other thoughts in his Bosom, and he to some other Expressions than Sir *George Ratcliff*: No man (said he) can commit Treason by his Attorney, and should I, by my Friend Sir *George*, as by a Proxy?

For his Brother, He never knew him before so rash; but that was nothing to him; except they could prove a nearer Identity than Nature had instituted, and that his Brother's Words and his were all one, yet withal he conceived that his Brother's Words might be very well understood, of the *Scots* conquering *England*, but not at all of the *Irish*; and so he wished with all his heart, that he had not spoken something which is like a Prophecy.

To the *Primus's* Testimony (with all Reverence to his Integrity be it spoken) he is but one Witness, and in Law can prove nothing; Add to this (said he) that it was a private Discourse between him and me, and perhaps spoken by me *Tentandi gratia*, and how far this should be laid to a mans Charge, let your Lordships judge.

Yea, this seems to me against Humanity it self, and will make the Society of men so dangerous and loathsome to us, that our Dwelling-Houses will be turned to Cells, and our Towns to Desarts: That which God and Nature (our Tongues) have bestowed upon us [for the greater comfort of venting our own Conceptions, or craving the Advice of Wiser and Learneder men] should become Snarcs and Burdens to us, by a curious and needless Fear; yet if my Words be taken, said he, with all that went before and followed after, I see no danger in it.

To the Lord *Conway* I may reply the same, with this Addition, That it is a very Natural Motion, for a man to preserve himself: every Creature hath this Priviledge; and shall we deny it to Monarchy, provided this be done in a lawful, though in an extraordinary way? This grain of Salt must be added to seal n all my Discourse.

To that of Sir *Henry Vane*, of offering my Service to the King, I thank him for the Testimony, and think he hath done me much honour thereby; But if he or any body else do suspect that his Majesty will employ me in unlawful Enterprizes, I shall think them more liable to the Charge of Treason than my self,

To the subsequent Testimonies, I shall not need to wrestle about them much, only the last of Sir *Henry Vane* pinches, and lies sore upon me, but to that which the Earl of *Clare* (and I thank him for it) hath said already, give me leave to add this, that the Testimony of one man is not a sufficient Witness, nor can a man be Accused, much less Condemned, of Treason, upon this, and for that read the Stat. of *Hen. 7. 12.* and of *Edw. 6. 5.*

Now my Lords (said he) to give you further satisfaction, I shall desire all the Lords of the Council, which were then present (only to the number of eight) may be examined whether they heard these words or not, for the Archbishop and Sir *Francis Windebank* they cannot be had, Sir *Henry Vane* gives the Testimony, I deny it, four only remain.

First, The Earl of *Northumberland*'s Testimony, which was read, had declared expressly that he had never heard those words, nor any like them from the Lord *Strafford*, but he spake with great Honour and regard to the Kingdom of *England*.

Secondly, the Marquess *Hamilton*, who declared upon his Oath, that he had never heard such words, but that he had heard the Lieutenant often say, that the King was to rule his Royal Power *Candido & Caste*, that it would never be well for this Kingdom, till the Prerogative of the Crown, and the Privilege of the Subject went in one pace together, and that Parliaments were the happiest way to keep a correspondence between the King and People.

The very same was delivered by the Lord Treasurer, and the Lord *Cottington*.

Now, my Lords, you may marvel how these words rested only on the ears of Sir *Henry Vane*, but my Lords, said he, that I may remove all scruple from you, I will make it evident that there was not the least intention that the *Irish Army* should set a foot in *England*, and then I hope you will conceive that I had no meaning to reduce this Kingdom.

This he made clear by the Testimony of *Northumberland*, the Oaths of Marquess *Hamilton*, Lord *Cottington*, Lord Treasurer, Sir *Thomas Lucas*, who only were private to that matter.

For other of my words my Lords (said he) I desire you would not take them by halves, if so, who should be free from Treason? Certainly, if such a precedent take footing, *Westminster-hall* shall be more troubled with Treason than with Common-Law, look therefore to the Antecedents and Consequents of my Speeches, and you shall find the state of the question clearly altered; the Antecedents were upon an absolute or inevitable necessity, upon a present Invasion, when the remedy of a Parliament cannot be expected; the Consequents for the defence of the Kingdom, which accompts afterward to the Parliament. The qualifications too in a lawful, convenient, and ordinary way, so far as the present necessity can permit. Add but these, and which of you are not of my mind? Is the King endowed with no power from the Lord? Is he not *publicus inspector Regni*? Stands it not him in hand to do something on present necessities?

And that these were his words he often proved, over and over again, by the Marquess, by the Lord Treasurer, *Cottington*, Sir *Tho. Ferriars*.

My Lords, what I have kept to the last (said he) is this, and I would intreat you seriously to think of it; If a mans Table, his Bed, his House, his Brother, his Friends (and that too after they have given an Oath of Secrecy) to be Rats to find out Treason against him, who never knew what it meant, what earthly Man shall pass free from Treason? Let my misfortune my Lords be your advertisement, your wise Ancestors were glad to put bands and limits to this Lion Treason, if you give him the large scope of words to range into, he will at last pull you or yours all to pieces.

But my Lords, I did never think till now, that matter of Opinion should be objected as matter of Treason.

For, first Opinions are free, and Men may argue both *pro* and *con*, in all faculties, without any stain of his Reputation, otherwise all consultations would be vain.

Secondly, I may be of another Judgment then I declare myself to be of opinion, perhaps to gain better Arguments for the maintenance of my own Grounds.

Thirdly, Many, and my self often times, have propounded my Opinion, yet upon hearing better Judgments, have presently changed it.

Fourthly, We use to strain our Opinions too high, sometimes that we may meet in a just moderation with those whom we conceive in the other Extremity to be too low.

Fifthly, It is expressly commanded by the Stat. *Hen. 6. 9.* That though a Man should say the King is not lawful Heir to the Crown, and may be deposed, yet he is not to be charged with Treason, but only with Felony, and I hope my Lords, those words are of a more transcendent and superlative nature, than any alleged by me to be spoken; But my Lords (said he) lay it to your hearts, it must come to you, you and your posterity are they whom God and Nature, Birth and Education have fitted to beautify the Royal Throne, and to sustain the weighty affairs of the Kingdom, if to give your Opinions in Political Agitations shall be accounted Treason, who will be willing to serve the King, or what a dilemma are you in; If, being,

being sworn Councellers, you spake not your minds freely you are convict of perjury, if you do, Perhaps, of Treason. What detriment! What Incommodity shall fall to King and Kingdom, if this be permitted? Which of you hereafter will adventure, yea dare adventure, so much as to help by your advise, unless you be weary of your Lives, your Estates, your Posterity, yea your very Honour; Let me never live longer than to see this confusion, yea I may say it, this inhumanity in England, for my part (my Lords) I here confesse my self, I ever have, and ever shall spack my opinion freely, in any thing that may concern the Honour and safety, either of my gracious King or my dear Countrey, though the Sword be two Edged, fearing rather him that killeth the Soul, than him whose power reacheth only to the body.

Nor do I see how I am culpable of Treason, unless it be Treason for not being Infalible, and if it be so, my Lords, you have this rag of mortality before you, loaden with many infirmities; though you pull this into shreds, yet there is no great loss, yea there may be a great gain, if by the same I may seem to have dared to say, to give a Testimony to the World of of an Innocent Conscience towards God, and a Resolute loyalty towards my Prince [which have ever been my only Pole-star in the whole course of my life] and if by spilling of mine, there be not a way found how to trace out the Blood of the Nobility (which I hope your Lordships will look too) there is no disadvantage at all suffered by the loss of me. You have his very words as near as I could recollect:

Tuesday was a day of Rest.

Wednesday. Upon Wednesday Whitlock Charged thus: That the preceding Articles were of so high a consequence, and of so transcendent a Nature, that nothing wanted to make up the Charge, but a perfect measure of the most horrid Treason, and monstrous Attempt that ever, by a Nobleman, was intended against his King and Countrey: But putting these designed projects into Execution, which had undoubtedly hapned to the ruine and Subversion both of Church and State, had not the clemency and goodness of the Prince, and the Piety and carefulness of the well affected Peers remouedly foreseen and prevented the same; that still the Principles of Tyranny and Oppression had lodged within his Bosom, and therefore had burst forth into these expressions and advices contained in the following Articles, where first, in the twenty fifth, they Charged him with three things.

First, That he had advised the King to a rigorous and unlawful exaction of Ship-Money. Secondly, That he had given Council, that if the Sheriffs should deny their best endeavours, and assistances to that effect, they should be sent for and fined by the Star-Chamber, and imprisonment. Thirdly, That when the Aldermen of London, had in all humillity represented the Cause why the Ship-Money could not be collected amongst them, and had given in the Reasons why they refused to give in a List of their names, within their City, who were able to afford the Loan-Money; He in a contemptuous and Tyrannical manner, in the face of the Council-Board had said to the King, Sir. These Men deserve of their obstinacy and forwardness, deserved very well to be fined, ransomed and laid by the heels. And it will never go well with your service, until some of them be hanged up for examples to others.

The Proofs were these:

First, The Bishop of Lodon, Lord Treasurer, who declared that he remembered the words very well, that the Lord Lieutenant had advised the King to cause the Ship-Money to be gathered in, but he remembered withal, that both himself and all the Council had done the like, and that it was upon a present necessity, and defect of Money, for entertaining the Army, which (the condition of the times considered) they all conceived, was by any means to be kept on foot.

Secondly, Alderman Wiseman declared, that upon an humble Remonstrance made to the Council-Board, the City would take it ill, if a Tax-role should be delivered of their Estates, who were not able for the Loan-Money; the Lord Strafford said, they deserved to be fined, Ransomed, and laid by the Heels, but for the words of hanging them up, he heard not at all.

Thirdly, The Earl of Berkshire declared, that the Lord Strafford had said, that upon the refusal of such a service enjoined by the Kings Peremptory Command, it was his Opinion, they might be fined.

Fourthly, Alderman Garway attested the preceding words, and withal added, that the Lord Lieutenant, to his best remembrance, had said, it were well for the Kings service if some of them were hanged up.

They closed the Charge, That by such unduifull Expressions, he had injured the propriety of the Subject, and had put such discontent upon the City, that they were the less willing upon any occasion to answer for the advantage of the Kings Service.

The Lieutenant Replied :

First, That though all the Charge were, in the most strict and rigid way or sence *Straffords Reply.* verified against him, yet he could not conceive by what Interpretation of Law it could be reach't home to High-Treason, and to that common objection (that the Treason was not individual but Accumulative) he replied that under favour he thought to that manner, were as much as to say, no Treason at all : Because,

First, That neither in Statute Law, Common Law, nor practise, there was ever, till this time, heard of such a matter as Accumulative-Treason, or a Treason-by way of Consequence, but that it is a word newly coined to attend a Charge newly-invented, such an one as never was before.

Secondly, That Treason was a thing of a simple and specificative nature, and therefore could not be so by accumulation, but either must be so in some, or either of the Articles, or else could not be so at all.

Thirdly, *He did conceive that it was against the first principles of Nature, and false; therefore could not be so by Accumulation, but either must be so in some or each of the Articles, or else could not be so at all.* That a heap, or Accumulation, should be and not be of Homo-genous things, and therefore that which, in its first being, is not treasonable, can never confer to make up an accumulative Treason. *Cumulus, an heap of Grain,* so called because every, or at least some of the individuals are grain; if otherways, an heap it may be, but not an heap of Grain: Just so, perhaps these Articles may make up an heap of Felonies, Oppressions, Errors, Mis demeanors, and such like (and to the thing it self. I shall give an answer when, under that name, they shall be Charged against me) but they can no ways confer to the making up of Treason, unless some, at the least, be Treason in the Individual.

Secondly, That the Testimonies brought against him, were all of them single, not two one way, and therefore could not make Faith in matter of Debt, much less in matter of Life and Death; yea, that it was against the Statute expressly, to impeach a Man of High-Treason under the evidence of two famous Witnesses, much less to adjudg and convince him upon attestation of one.

Thirdly, To the Lord-Treasurers Testimony, he did with all his heart, condescend unto it, but upon these grounds only, that there was a present necessity of Money, that all the Councel-Board had so voiced with him, yea before himself, and he always thought it Presumption in a Man, not to follow the wiser and more judicious, and that there was than a Sentence of the Star-Chamber, for the right of paying Ship-Money: for his part, he would never be more prudent then his teachers, nor give Judgment against the Judges, and therefore he thought it not far amiss to advise the King for the collecting of that, which by Law was his own, in such a present and urgent necessity, and although his opinion (and it was no more) had been amiss, he hoped, that though in case of Religion, being attended with stubbornness and pertinacy, it might come home to Heresie, yet in his case opinion could not reach so far as Treason; unless it be Treason for a Man to spake his Judgment freely, when he is upon his Oath to do the same.

Fourthly, For the words about fining, he had already acknowledged in his general Answers to be true, but with these qualifications, that it was his opinion only, that it was upon the refusal (as he conceived) of a just service, that he had spoken them, by no means to prejudice the Citizens, but to make them the more quick and active in the Kings service: that no ill consequence at all happened upon them; that they were words might have been spared indeed, but innocently, though suddenly, spoken; which he hoped might proceed from a Man of such a hasty and incircumspect humor as himself (made so both by nature, and his much infirmity of body) without any mind at all to Treason, and that if all Chollerick expressions, of that nature, should be accounted treasonable, there would be more suits, of that kind, fly up and down *Westminster-Hall*, then Common-Law.

Fifthly, To those words attested by the Alderman, he positively denied them, and hoped they should never rise up against him in Judgment, because the Testimony was single and not positive, but only to his best remembrance, and that it was exceeding strange, that not any one man, neither of the Councel or other Aldermen were so quick to observe them, but only Alderman *Garney*, which he thought sufficient to nullifie that single Testimony, except he could demonstrate himself to have some rare and singular faculty of hearing.

In the Close, He desired the Lords, from his misfortune, to provide for their own safety, and seriously to consider what a way was chalked out to ruin them both in their Lives and Estates, if for every opinion given in Councel, or words suddenly or hastily spoken, they (who are born to weild the great affairs of the Kingdom) should be Arraigned and Sentenced as Traytors.

Then they went to the twenty sixth Article and Charged thus:

Charge Article 26.

That the Lord Strafford, having by his wicked advices exhausted the Kings Treasury, did also Counsel him:

First, To imbase the Coin, by an alloy of Copper-Money.

Secondly, To seize upon all the Bullion in the Mint.

Thirdly, That in discourse with some of the Aldermen, about that business, he had said, the City was more ready to countenance and relieve the Rebels than the King; and that the King of France did use to manage such businesses, not by Treaties or Requests; but by sending forth his Commissioners to take Account of Mens Estates, accompanied with Troops of Horses.

The Proofs were.

First, Sir Thomas Edwards, who declared, that in discourse with the Lord Strafford, having remonstrated unto him, that their goods were seized on beyond Seas, because of the Money taken out of the Mint; he told him that if the Londoners suffered it, it was deservedly, because they had refused the King a small Loan of Money upon good security, and that he thought them more ready to help the Rebels than the King.

Secondly, Mr. Palmer declared that he spake something about the King of France, but whether with relation to England or not, he did not remember.

Thirdly, Sir William Parkise attested in the same words, and withal that the Lord Cottington was then present, and could declare the whole business.

Fourthly, Sir Ralph Freeman declared, that in a discourse with the Lord Strafford he had said that the servants in the Mint-house would refuse to work the Copper Money, and he replied, that then it were well to send those Servants to the House of Correction.

They closed the Charge, That by such undisful Counsel and words, he had given more then sufficient proof, of his Design and purpose to subdue this Kingdom, and subvert the Fundamental Laws, and Priviledges of the same.

The Lieutenants-Reply.

First, That he had expected some proofs about the two first particulars, but did hear of none, and that it was no small disadvantage to him, to be charged with a great many odious Crimes, by a Book Printed, and flying from hand to hand, through the whole Kingdom, yet when they came to prove there should be no such thing laid against him.

Secondly, About the Speeches. He ingeniously confessed, that some such thing might perhaps have escaped the dore of his lips, when he saw their backwardness to his Majesties Service, and as the times were then conditioned he did not think it much amiss to call that faction by the name of Rebels, but yet he thought he had abundantly satisfied for that oversight, (if it was any) at York: For having understood there that the City of London were willing to make a Loan of Money, he there before the great council of the Peers, expressed himself to this sence, that the Londoners had sufficiently made up all their delays hitherto by their Act that the King was obliged to their forwardness, and that he himself should be as ready to serve them as any poor Gentleman in England: About the other words he said, that being in conference with some of the Londoners, there came at that time to his hands a Letter from the Earl of Leicester, then at Paris, wherein were the Gazers inclosed, reporting that the Cardinal had given some such order, as to leavy Money by forces, this he said he only told the Lord Cottington standing by without the least application or intention concerning the English Affairs, Cottington being examined upon this, declared the same in the same manner.

Thirdly, to Sir Ralph Freeman, he said, that his Testimony did not concern the Charge at all, nor did he think any thing amiss in it, though he had said it; if the Servants of the Mint refused to work, according to directions they did deserve the House of Correction, nor was it Treasonable to say the King might use that House for the Correction of his Servants, as well as any Man in the City for theirs.

Fourthly, He said that there was no great likelihood that he had committed real Acts of Treason, when his adverse party was content to trifle away so much time about words, neither was there any Treason in them, though they had been fully verified, and therefore in that (as in all other Articles) he reserved a power for his Council to dispute in matter of Law.

They went to the Twenty seventh Article, and Charged thus; That immediately after his Appointment to be Lord Lieutenant to the Army here in England, he shewed what Principles of Arbitrary Government lurked within his bosom; for by his own immediate Authority, without and against Law, he had laid Imposts of Money upon the Kings Subjects: where they mention three Particulars.

First,

First, That he had imposed 8 d. per diem upon the County of York, for entertaining the Trayned Bands, there one whole Month.

Secondly, That they had sent out Warrants for collecting the same, and threatened to imprison such as should refuse to pay.

Thirdly, That he said that it was a Crime nigh to the Crime of high Treason, *not to pay the same.*

Fourthly, They added that in his general Replies, he had brought two things for his defence: First, that this money was freely and voluntarily offered by those in York-shire; secondly, that the great Council of the Peers had notice of the same.

To the first they answered, that a Petition was indeed preferred by the York-shire men, and a Month pay offered, but that the Lord Strafford had refused to present the same upon this exception only, because in the same they had petitioned for a Parliament whereby he evidently declared what his Inclination he had to that way.

To the Second, They appeal'd to all the Lords present, whether any such Order did pass before the Council of the Peers at York.

The Proofs were,

First, A Warrant issued by Colonel Pennyman, for this Money, and another by Sir Edward Osborne.

Secondly, Mr. John Burrowes, who declared that he was Clerk to the great Council, but did remember of no Order; and withal added, that it might have passed at that time, when he attended at Rippon.

Thirdly, Mr. Dunston who declared, that he had known that Money levied by some Musqueteers.

Fourthly, By Sir William Ingram, who declared, that he had heard the Lieutenant say, that to refuse the same, came nigh to the Crime of High Treason.

The concluded the Charge, That by these Particulars, it was more than evident what unhappy Purposes and Treacherous Designs he had to subvert this Kingdom, and subvert the Fundamental Laws and Privileges.

First, To the Petition, That it was a true Petition, drawn up by the York-shire Gentlemen, and as true that he had refused to present the same, because of that clause *about the Parliament*; but the matter was thus; At his Majesties coming to York, it was thought necessary for the defence of that County, to keep the Trayned Band on foot, because the Enemy was upon the Borders; and therefore the King directed him to write to all the Free-holders in York-shire to see what they would do for their own defence.

The Time and Place were designed by the King; but the night before the Meeting, a small Number convened, and in a private and factious way, did draw up that Petition upon the morrow. at their appointed Diet, in presence of the whole Number, the Petition was presented to him, where he did advise them to leave out that Clause, and that because he knew the King, out of his own Gracious Disposition, had intended to call a Parliament, which he desired should rather be freely done, than upon the constraint and importunity of Petitions; moreover it would seem a Mercenary thing in them, at one and the same time to offer a Benevolence, and withal to Petition for his Favour: upon this Remonstrance, they were all willing to recall the Petition, and directed him by word of Mouth, to offer unto the King the Months pay in their Names; which he did accordingly, in the presence of Forty of them, to their no small advantage.

This he proved by Sir William Pennyman, Sir Paul Neale, Sir George Wentworth, Sir William Savill, Sir Thomas Danby, who all of them declared as much in ample terms; and withal added, That nothing was done upon better grounds of Necessity and Obedience than the Offer of That Money, and that they never had heard any man grudge against it to this time.

For the Second, about the Council of Peers, he alledged that he never made mention of any Order of theirs, but he remembered very well it was twice propounded before them, that the King had approved it at that time a just and necessary Act, and none of the Council had contradicted it, which he conceived as a tacit approbation and an Order in Equivalence.

But though that had not been, yet there was nothing done in the Business, but at the special desires of the Gentlemen themselves, and for their necessary Defence and Protection; yet, though he had done it by himself alone, yet he conceived he had so much power by his Commission, causing the Commission to that effect to be read: That altho' he should mistake his Commission, and do some inferior Act beyond it (because Military proceedings are not always warranted by the Common Law) yet it should not be imputed as an Act of Treason to him.

And to this effect read a Statute of the Seyenth of Henry the Second.

To the Rights of the House of Commons.

To the Proofs.

First, Colonel Pennyman's Warrant, or Sir Edward Osburnes, it nothing concerned him, and he doubted not but these worthy Gentlemen could justify their own Act, and that he had enough to do to answer his own Misdeemeanors.

Secondly, For Sir John Burrowes, he was at Rippon when that Proposition was made.

Thirdly, That as the Warrant, so neither the Execution troubled him at all.

Fourthly, For Sir William Ingram, he was but a single Testimony, and that such an one too as he could produce an Evidence to testify, he had mistaken himself in his Testimony upon Oath, if it were not to disadvantage the Gentleman.

He concluded, That he had done nothing in that Business, but upon the Petition of that Country, the King's Special Command, the Connivance at least of the Great Council, and upon a present necessity, for the Defence and Safety of the Country.

And so much for Wednesday.

Thursday. Upon Thursday the Committee for the Charge declared that they had done with all Charge, the Articles, and were content to wave the last, for Reasons best known to themselves; Sir Walter only Sir Walter Earles added that he had some Observations to bring forth upon the Earl's Objections. two and twentieth Article, which he conceived might do much to prove the Earl of Strafford's Designs for Landing the Irish Forces in England.

And they were,

First, That in his Commission he had Power to Land them in Wales, or in any part of England, or in Scotland, which were altogether superfluous, unless there had been some purpose for the same.

Secondly, That within two days before the Date of the Commission, Letters were sent to the Lord Bridgewater and Pembroke from Sir Francis Windebank, to assist the Earl of Worcester, in Levying Forces for the Kings Service, and these might be supposed to have intended a joining with the Irish.

Thirdly, That the Lord Ranelagh at the raising of the Irish Army, did fear such a Design as this

Fourthly, That the Town of Ayre in Scotland, where the Lord Strafford pretended he would Land those Forces, was fortified with a Bulwark, a Garrison and Block house, which would prohibit Landing there; that the Earl of Argyle's Bounds were divided thence by the Sea, and that the Barr or Entry into the Town was very dangerous and shallow.

The Proofs were only the Reading of the Commission granted to the Lord Strafford.

The Lieutenant's Reply.

First, That his Commission was the same Verbatim with Northumberland's for England, and that it was drawn up by the Council-Board here, and sent over unto him; so no more Design in him than in the Gentlemen of the English Army, nor no larger than that was put upon him.

Secondly, That this was the first time he heard of any such Letters, nor did they concern him more than any of the House.

Thirdly, That he was not bound to purge the Lord Ranelagh from all his Fears; and that he had his own Fears too, which God forbid should be Evidence of Treason against any man whatsoever.

Fourthly, That it seemed the Gentleman had better Information from that Kingdom than himself, yet he would be confident to say, at Ayre there was never such a thing as a Block-House or Garrison. But to remove all Scruples (for indeed the Road or Landing-place is not there safe) he declared that it was his intention to have Landed some Miles above Ayre, and made only his Magazine of that Town.

To the Earl of Argiles Bounds, he hoped the Gentleman knew they came not on foot out of Scotland, but had Ships to waite and transport themselves, and that one of his prime Houses (Rosneath) was within some few Miles of the same Frith.

The Lord Digby finding Sir Walter Earles on ground, did handsomly bring him off, and told the Lords that all their proofs for that Article were not yet ready, and that this was a Supersecution only of the Charge, and that in such a Business as the Plotting of Treason, they must be content sometimes with dark Probabilities.

Glyn's charitable speech Then Mr. Glyn desired the Lieutenant to resume his Defence, that they might give a Repetition of their Charge, and so close the Process so far as concerned the matter of Fact,

Strafford's Reply. He replied, that in his Case all slackness is speed enough, the matter touched him narrowly even in his Life and Estate, yea, in that which he esteemed above them both, his Honour and Posterity, and therefore he confessed he had no desire to ride post in such a Business. That he knew the Gentlemen at the Bar, if they were in his Case, would think the time little enough, except their more able Judgments could sooner dispatch the matter in hand; and therefore he humbly intreated that that day might be granted to him for strengthening himself, and recollecting his Thought and Spirits, and to morrow he would be ready with his last Replies for himself; which after a little Ceremony and Contestation, was condescended unto by the House of Commons.

Upon

Upon Friday Morning, about Eight of the Clock, the Lieutenant of the Tower, and any Lord's Chamber-Groom came to the Hall; and gave information to the House, upon Oath, That the Lord *Strafford* was taken with an exceeding great pain, and fit of the Stope, and could not upon any conditions stir out of his Bed. *Friday he was tired from coming by a fit of the Stope.*

Mr. *Glyn* replied, That it was a Token of his wilfulness, not his weakness, that he had not sent a Doctor to testify the same. *Glyn again.*

The Lord Steward made answer, that a Doctor could not be had perhaps so soon in a Morning, nor was it possible for any Physician to give a certain judgment concerning a man's disability by the Stope; because there is no outward Symptoms that appear.

Mr. *Glyn* excepted; That if he did not appear upon Saturday Morning, he should lose the privilege to speak in his own defence afterwards; and they permitted to proceed.

The Lord Steward replied, That the Lords had appointed four of their Number to go to the Tower, and learn the just cause of his Stay; and if by any means he were able, he should be obliged to come then; if not, Humanity, and common Equity would excuse him.

"In the Afternoon it was reported that he was dead, of which there can be no better reason given, than the Humour and Genius of the Times, that *Report of my Lord Strafford's death.*

"daily with nothing oftner than untruths, and calumnies; and certainly there are many men of shallow understanding, and weak affections, who either will not, or cannot understand the Gentlemen's worth, but out of fearful and needless apprehensions, are so desirous to hear of his Ruin any way, that their busy Tongues will dare to anticipate the stroke of Justice."

Mr. *Glyn* proffers new proofs concerning the two and twentieth Article.

Upon Saturday Morning he presented himself at the Bar, where he expected nothing but Repetitions of Charges and Defences; but mean while Mr. *Glyn* proffers some new Proofs concerning the two and twentieth Article, which the noble Lord refused; alleging the Process was closed; Mr. *Glyn* answered, the Process is not closed, as long as the business stands unrepealed; and that it did not become a Prisoner at the Bar to prescribe a Method of proceeding to the House of Commons in England. *Saturday.*

It was answered by the Lord Lieutenant, That he thought it stood him in hand as nearly to maintain his life, as it did any to pursue him for it, yet he was willing they should bring in new Proofs, provided that he might have time to make new Replies, and withall use some new Witnesses in some Articles, that concerns his justification.

The Lord *Newark*, upon these motions desired the House might be adjourned; after two hours stay, and a hot conflict upon the Lords, they returned, and the Lord Steward commanded the Order to be read, which consisted of two Articles.

First; That it was granted unto them to bring in Proofs concerning the two and twentieth Article; so it was to the Lord *Strafford* to make his replies, and use his Witnesses concerning the same.

Secondly; That if they went to no more Articles; no more should the Lord *Strafford*; but if they did, that he might pitch upon any one Article as he pleased.

The House of Commons presently declined all other Articles, and conceived the Order expressly for them, restraining him from all other Articles, except that only.

He conceived the Order was for him, and said, That seeing they had pick'd out their Article, it was against all common Equity to tie up his hands, and not admit of a common Rule for them both; they replied, That when the Article was canvased, they reserved Witnesses till another time; he answered, That he had done the same upon every Article; they replied, That the House had refused his Reservation; he answered, Nor had they passed an Order for theirs.

Upon this new Contestation the House rose again, and was adjourned. It is supposed that the House of Commons had the better ground; because they had particularly named their Witnesses in their Reservation, the Lord *Strafford* not so; they pressed but one Article; he many. But such was the pleasure of the Lords, that though the matter did not deserve to be much stood upon; yet after two hours vehement agitation of the business in the Upper House, they returned, and the Order was in his favour to this effect.

First, That both of them should wave their new Proofs, and go immediately to that which follows.

Secondly, If they would not do so, the Lords conceived themselves common Judges to both, and therefore would not deny *Strafford* the liberty of pitching upon what Article he pleased; as they had done.

Thirdly, That both of them should name their Witnesses at the Bar instantly.

The Commons were much grieved at this, yet desired him to nominate his Witnesses, if he would make any benefit of the Order; he answered, That he would nominate after them, because they were first in order; they replied, That he knew their Article, they not his: He said, He was to bring Proof about the second, fifth, thirteenth, and the fifteenth Articles, and did desire them that they would now proceed to nomination.

But they told him, they could not embrace the Order without advice of the whole House; then on a sudden, a mighty noise followed of the whole House, Withdraw, Withdraw, and was in so uncouth and tumultuous a confusion, that it produced both admiration and fear in the Beholders, wherein we might easily feel the Pulse of a distempered State; both the Houses brake up, not appointing so much as the next Diet, each man's countenance spake anger and discontent, and nothing sounded in our Ears all Sunday but terrors and affrightments, of a present division and breach between the two Houses; That the House of Commons would declare him a Traytor, and all such Lords too, as were his adherents; that he should be no more heard in public, that (though Parties and not his Peers) they would Vote in his Sentence; That a Bill of Attainder should presently be drawn up against him, and that nothing could content them but present execution. Big words flew up and down all Monday.

Monday spent in a conference betwixt both Houses.

That whole day was spent in a Conference betwixt the Houses, without any meeting in the Hall, but the Lords (who had learned, as it seems, to force their own ruin by his misfortune, and now conceive that Monarchy and Nobility are of such Identity, that one and the same is the diminution of both) kept fast to their conclusion, and would not pass from their Order, notwithstanding all the many dangers represented, so that the House of Commons were constrained at last to give way, and embrace the first part of the Order, by waving Witnesses on both sides.

This hath been no small discouragement to his Enemies, for a more real Demonstration of his party amongst the Lords could not have been shewn.

Upon Monday, some of the Lords went so high in their heat, as to tell the House of Commons, that it was an un-natural motion for the Head to be governed by the Tail; That they hated Rebellion as bad as Treason; That the same blood that ennobled their Ancestors, did move also in their Veins, and therefore they would never suffer themselves to be suppressed by a popular faction.

After a great deal of storm all was (as well as might be) sodered up again, and Tuesday appointed to be the day for the Lieutenant to resume his Defences, and they their Charge, without any more proof, to be used on either side.

Tuesday. Upon Tuesday, the Lord Steward, at the entry told them, the Lords had Ordered, that both their Testimonies should be waved, that they should proceed immediately to what followed, so that that day might put an end to what concerned the matter of Fact.

Stratford's reply. The Lord Lieutenant replied, That in all humility and obedience, he would submit himself to that, or any other their Decrees whatsoever, though it should reach as far home unto him as his own Life; but withall humbly begged, That if hereafter he should be troubled (for they were to speak last) with new matter, or with supplemental Proof, he might have leave to speak something in his own Defence.

The Lord Steward answered, It was all the reason in the World.

The Lieutenant went on thus:

MY LORDS,

My Lord Stratford's last Speech in the Hall.

This day I stand before you charged with High Treason, the burthen is heavy, yet far the more, in that it hath borrowed the Patrociny of the House of Commons; if they were not interested, I might express a no less easie, than I do a safe issue and good success to the business: But let neither my weakness plead my Innocence, nor their power my Guilt. If your Lordships will conceive of my Defences, as they are in themselves, without reference to either (and I shall endeavour so to present them) I hope to go away from hence as clearly justified, as I am now in the testimony of a good conscience, by my self. My Lords, I have all along my Charge watched to see that poisoned Arrow of Treason, that some men would fain have to be feathered in my Heart, and that deadly Cup of Wine, that hath so intoxicated some petty misalligned Errors, as to put them in the Elevation of High Treason; but in truth it hath not been my quickness to discern any such Monster yet within my Breast; though now perhaps, by a sinister Information, sticking to my Clothes: They tell me of a two-fold Treason, one against the Statute, another by the Common-Law; this direct, that consecutive; this individual, that accumulative; this in it self, that by way of construction.

For the first, I must and do acknowledge, that if I had the least suspicion of my own guilt, I would spare your Lordships the pains, cast the first Stone at my self, and pass Sentence of condemnation against my self: And whether it be so or not, I refer my self to your Lordships Judgment and Declaration: You, and only you, (under the favour and protection of my gracious Master) are my Judges, under favour none of the Commons are my Peers; nor can they be my Judges: I shall ever celebrate the Providence and Wisdom of your noble Ancestors; who have put the Keys of Life and Death (so far as concerns you and your Posterity) into your own hands, not into the hands of your inferiours: None but your own selves know the rate of your noble Blood, none but your selves must hold the Balance in dispensing the same.

I shall proceed in repeating my Defences, as they are reducible to these two main points of Treason, and for Treason against the Statute (which is the only Treason in effect) nothing is alleged for that, but the fifteenth, two and twentieth, and twenty seventh Articles: "Here he brought the sum of all his Replies made to these three Articles before, and almost in the same words as before; only that testimony of Sir Henry Vane's, because it seemed pressing, he stood upon it, and alleged five Reasons for the nullifying thereof.

First, That it was but a single testimony, and would not make Faith in a matter of Debt, much less in a matter of Life and Death, yea that it was expressly against the Statute to impeach (much less to condemn him) upon High Treason, under the testimony of two famous Witnesses.

Secondly, That he was dubious in it, and exprest it with an; *as I do remember*, and such, or such-like Words.

Thirdly, That all the Council of eight, except himself, disclaim the words, as if by a singular providence they had taken hold of his Ears only.

Fourthly, That at that time the King had levied no Forces in *Ireland*, and therefore he could not be possibly so impudent as to say to the King, that he had an Army there which he might employ for the reducing this Kingdom.

Fifthly, That he had proved by Witnesses beyond all exceptions (Marquess Hamilton, the Lord Treasurer, the Earl of Northumberland, Lord Cottington, Sir William Pennycuik, and Sir Arthur Terringham) that there was never the least intention to land those Forces in *England*. He went on:

So much for the Articles that concern Individual Treason.

To make up the Constructive Treason, or Treason by way of Accumulation, many Articles are brought against me, as if in a heap of Felonies or Misdemeanors (for in their conceit they reach no higher) some prolifical seed apt to produce what is treasonable, could lurk: Here I am charged to have designed the ruin and overthrow, both of Religion and State: The first seemeth rather to have been used to make me odious than guilty, for there is not the least Proof alleged concerning my confederacy with the Popish-faction; nor could there be any indeed; never a Servant in Authority beneath the King my Master, was ever more hated and maligned by those men than my self, and that for an impartial and strict executing of the Laws against them.

Here your Lordships may observe, that the greater number of the Witnesses used against me, either from *Ireland* or from *York-shire*, were men of that Religion: But for my own Resolution (I thank God) I am ready every hour of the day to Seal my disaffection to the Church of *Rome*, with my dearest Blood.

But, my Lords, give me leave here to pour forth the grief of my Soul before you, these proceedings against me seem to be exceeding rigorous, and to have more of prejudice than equity, that upon a supposed Charge of my Hypocrisy or Errors in Religion, I should be made so monstrously odious to three Kingdoms; a great many thousand Eyes have seen my Accusations, whose Ears shall never hear, that when it came to the upshot I was never accused of them. Is this fair dealing amongst Christians? But I have lost nothing by that: Popular applaus was ever nothing in my conceit, the uprightness and integrity of a good Conscience, was, and ever shall be, my continual Feast; and if I can be justified in your Lordships judgments from this grand imputation (as I hope now I am, seeing these Gentlemen have thrown down the Bucklers) I shall account my self justified by the whole Kingdom, because by you, who are the Epitomy, the better part, yea the very Soul and Life of the Kingdom.

As for my Design against the State, I dare plead as much Innocency here, as in matter of my Religion: I have ever admired the wisdom of our Ancestors, who have so fixed the pillars of this Monarchy, that each of them keep a due proportion and measure with other, and have so handsomely tied up the Nerves and Sinews of the State, that the straining of any one may bring danger and sorrow to the whole Oeconomy. The Prerogative of the Crown, and the Propriety of the Subject, have such mutual Relations, this takes protection from that, that foundation and nourishment from this. And as on the Lute, if any one string be too high or too lowly wound

up, you have lost the Harmony, so here the excess of a Prerogative is oppression of pretended Liberty in the Subject, Disorder, and Anarchy. The Prerogative must be used as God doth his Omnipotency, upon extraordinary Occasions; the Laws (answerable to that *potentia ligata in Creaturis*) must have place at other times: And yet there must be a Prerogative, if there must be extraordinary occasions, the Propriety of the Subject is ever to be maintained, if it go in equal pace with this: They are fellows and Companions that have and ever must be inseparable in a well governed Kingdom; and no way so fitting, so natural to nourish and entertain both, as the frequent use of Parliaments: By those a commerce and acquaintance is kept, betwixt the King and Subject. These thoughts have gone along with me these fourteen years of my public Employments, and shall God willing to my Grave: God, His Majesty, and my own Conscience, yea, and all those who have been most Accessory to my inward thoughts and opinions can bear me witness, that I ever did inculcate this: That the happiness of a Kingdom consists in a just poize of the King's Prerogative, and the Subjects Liberty. And that things would never go well, till they went hand in hand together.

I thank God for it, by my Master's favour, and the providence of my Ancestors, I have an Estate, which so interesteth me in the Common-wealth, that I have no great mind to be a Slave, but a Subject; nor could I with the Cards to be shuffled over again, upon hopes to fall upon a better Set: Nor did I ever nourish such base mercenary thoughts, as to become a Pander to the Tyranny and Ambition of the greatest man living: No, I have and ever shall aim at a fair, but a bounded Liberty, remembring always that I am a Free-man, yet a Subject; that I have a Right, but under a Monarch. But it hath been my misfortune now when I am gray-headed, to be Charged by the Mistakers of the times, who are now so highly bent, that all appears to them to be in the extream for Monarchy, which is not for themselves. Hence it is, that Designs, Words, yea Intentions, are brought out for real Demonstrations for my misdemeanors, such a multiplying Glasse is a prejudicate Opinion.

The Articles contain Expressions and Actions: My Expressions either in *Ireland* or *England*; my Actions either before or after these late stirs (in this Order he went through the whole Charge, from the first Article to the last, in an excellent Method, and repeated all the Sums and Heads of what was spoken by him before, only added in the twenty eighth Article) if that one Article had been proved against him, it contained more weighty matter than all the Charge besides: And it had not only been Treason in him, but also Villany, to have betrayed the trust of His Majesty's Army. Yet because the Gentlemen had been sparing (by reason of the times) to insist upon that Article, though it might concern him much, he resolved to keep the same Method, and not utter the least expression that might seem to disturb the happy agreement intended, though he wished the same might deceive his expectation: Only thus much he admired, how himself, being an Incendiary against the *Scots*, in the twenty third Article, is now become their Confederate in the twenty eighth Article; or how he could be Charged for betraying *New Castle*, and for fighting with the *Scots* at *Newbourn* too, seeing fighting with them was no possible means for betraying the Town; but to hinder their passage thither.

That he never advised War farther (than in his poor judgment) concerned the very life of the King's Authority, and the safety and honour of his Kingdoms: Nor saw he what advantage could be made by a War in *Scotland*, where nothing could be gained but many hard blows: For his part, he honoured the Nation, but he wished they might be ever under their own Climate, and had no desire they should be too well acquainted with the better Soyl of *England*: But he thought that Article had been added in jest, or as a supernumerary; and he very little suspected to be reckoned a Confederate with the *Scots*, and wished (as he hoped it was) that every *English*-man were as free from that imputation as himself, [closing his Defence with this Speech.]

My Lords, You see what may be alleaged for this Constructive, rather Destructive Treason. For my part, I have not the judgment to conceive, that such a Treason is agreeable, either with the fundamental grounds of Reason, or Law: not of Reason, for how can that be Treason in the lump or mass, which is not so in any of the parts? Or how can that make a thing Treasonable, which in it self is not so? Nor of Law, since neither Statute, Common-Law, nor Practice, hath from the beginning of this Government ever mentioned such a thing; and where, my Lords, hath this Fire, without the least appearance of any Smoak, lien hid so many hundred years, and now breaks forth into a violent Flame to destroy me and my Posterity from the Earth? My Lords, do we not live by Laws, and must we be punished by Laws before they be made? Far better were it to live by no Laws at all, but to be governed by those Characters of Discretion and Virtue, that Nature hath stamped in us, than to put this necessity of Divination upon a man, and to accuse him of the breach of Law, before it be a Law at all. If a *Warr-man* upon the *Thames* split his Boat by grating upon an Anchor, and the same have a Buoy appending

to it; he is to charge his own Inobedience; but if it hath none, the owner of the Anchor is to pay the loss.

Mr Lords, if this Crime which they call Arbitrary Treason, had been marked by any discerner of the Law, the ignorance thereof should be no excuse for me, but if it be no Law at all, how can it in rigour or strictness it self condemn me? Beware you do not awake these sleeping Lyons, by the searching out some neglected Moth-eaten Records; they may one day tare you and your Posterity in pieces: It was your Ancestors care to chain them up within the Barracadoes of Statutes, be not you ambitious to be more skilful and curious than your fore-Fathers in the Art of killing.

My Lords, it is my present misfortune, for ever yours; and it is not the smallest part of my Grief, that not the Crime of Treason, but my other Sins (which are exceeding many) have presented me before this Bar, and except your Lordships wisdoms provide for it, it may be, the shedding of my Blood may make way for the tracing of yours; you, your Estates, your Posterities, lie at the stake. If such Learned Gentlemen as these, whose Tongues are well acquainted with such Proceedings, shall be started out against you, if your Friends, your Council denied access unto you, if your professed Enemies admitted to witness against you, if every Word, Intention, or Circumstance of yours, be sifted and alleged as Treasonable, not because of a Statute, but because of a Consequence, or Construction of Lawyers pieced up in an high Rhetorical strain, and a number of supposed probabilities: I leave it to your Lordships consideration, to fore-see what may be the issue of such dangerous and Recent Precedences.

These Gentlemen tell me they speak in defence of the Common-wealth, against my Arbitrary Laws; give me leave to say it, I speak in defence of the Common-wealth, against their arbitrary Treason, for if this latitude be admitted, what prejudice shall follow to King and Country, if you and your Posterity be by the same disenabled from the greatest Affairs of the Kingdom; for my poor self, were it not for your Lordships interest, and the interest of a Saint in Heaven, who hath left me here two Pledges on Earth, [At this his breath stopt, and he shed Tears abundantly in mentioning his Wife, which moved his very Enemies to Compassion] I should never take the pains to keep up this Ruinous Cottage of mine, it is laden with such infirmities, that in truth I have no great pleasure to carry it about with me any longer: Nor could I ever leave it in a better time than this, when I hope the better part of the World would perhaps think, that by this my misfortune I had given a testimony of my Integrity to God, my King and Country: I thank God, I count not the afflictions of this present life comparable to that Glory, which is to be revealed in the time to come.

My Lords! my Lords! my Lords! Something more I had to say, but my Voice and Spirits fail me, only I do in all humility and submission cast my self down before your Lordships Feet, and desire that I might be a *Pharos* to keep you from Ship-wrack; do not put such Rocks in your own way, which no prudence, no circumspection, can eschew or satisfy, but by your utter Ruin; and whether your judgments in my Case (I wish it were not the Case of you all) be either for life or death, it shall be righteous in my Eyes, and received with a *Te Deum Laudamus*, (and then he lifted up his Eyes, and said) *In te Domine confido, ne confundar in aeternum.*

This he spake with an inimitable Life and Grace. You have his very Words as near as I can remember, only with so much loss and detriment as hath perished by transcribing the Copy from his own mouth: But you desire impartiality, and indeed you have it, and with some Grains too of allowance, for I was so afraid of my own affection to the Gentleman, that I rather bowed to the other extremity, and therefore have set down his defences, rather to his disadvantage by my rude Pen, than in the native Colour, to his Eternal Glory, and the Confusion of his Enemies.

The Repetition of the Charge did not spend much time, they proceeded orderly Article by Article, in the very same Words and Matter as before, only there were some remarkable flashes that passed from Mr. *Glyn* (who was the man) in the time of their handling.

He told them that he should represent the Lord *Strafford* as cunning in his Replies, as he had been crafty in his Actions; that he waved all that was material, and insisted only upon the Secondary Proofs, that it was more than evident throughout all his Charge how he had endeavoured to bring in an Arbitrary and Tyrannical form of Government over the Lives, Lands, and Liberties, of the King's Subjects, yea had exercised a Tyranny over their Consciences too, by the Oath administered in *Ireland*; and though his malicious Designs had taken no effect, yet no thanks to him, but to the goodness of the King, and the vigilancy of the Peers: Had they pleas'd, it had been too late to have punished him, for no Rule of Law had been left whereby to censure him, after the death and expiration of the Laws. And if the Intention of *Guido Faux* might be thought Treason, though the House was not blown up, then this Intention of his may admit the same censure.

He closed, that throughout all his Defences he had pretended either Warrants from the King, or else the Kings Prerogative, and what was this else but to draw up a Cloud, and exhale the Vapour for the eclipsing of the bright Sun, by the Jealousies, or Repinings of his Subjects; If the strength of his Piety and Justice should not dispel all these Mists, and send them down to their Original: That the very standing and falling of these three Kingdoms stood upon this Process, all of which do conceive their safety so far interested in his just punishment, that no settling of their peace or quiet could be expected without this: That they hoped the Law should never protect him, who had gone about to subvert all Law; nor the Nobility (who had the same Blood moving in their Veins) by submitting themselves to his base Tyranny, lose that privilege and liberty, which their Ancestors had bought with their dearest Lives. Though there was no Statute for his Treason, was it the less monstrous? For there was none for so many hundreds of years that durst ever adventure upon such Insolencies, to occasion such a Statute: And were not the fundamental Grounds, Rules, and Government, sufficient to rise up in Judgment against him, without the making a particular Statute? This he said he left to the dispute of the Law, and concluded, That seeing they had found out the *Jonah*, who these many years had tossed and hazarded the Ship of the Common-wealth, with continual Storms and Tempests; there could no calms be expected, but by casting him out into the Seas; which in all Justice they must and do expect from their hands, who are intrusted by the body of the Kingdom to do the same. The Aggravation of the Offence he said, he had left to Mr. *Pym*, who here spake that Speech which is now in Print.

It was a Sport to see how Mr. *Pym* in his Speech was fearfully out, and constrained to pull out his Papers, and read with a great deal of confusion and disorder; before he could recollect himself; which failing of his memory was no small advantage to the Lieutenant, because by this means the House perceived it was a premeditated flash, not grounded upon the Lieutenant's last Answer, but resolved on before, whatsoever he should say for his own justification; but the Lieutenant was not suffered to reply a word, either to *Glyn* or *Pym*, because the last word must be theirs. And so with Tuesday ended the matter of Fact.

On Thursday the Dispute in Law is expected.

Upon Wednesday we were big with expectation for the matter of Law, having done before with the matter of Fact; but it seems the House of Commons had perceived a great defection of their Party, and a great increase of the Lord *Strafford's* Friends in both the Houses, occasioned by his insinuating, honest, and witty defences, and therefore they resolved of no more hearing in public; therefore it was thought upon by his Accusers to draw up a Bill of Attainder, and present the same to the Lords, whereby first the matter of Fact should be declared to have been sufficiently proved, and then in the matter of Law that he had incurred the censure of Treason, for intending to subvert the fundamental Laws of the Kingdom, for though (said they) he cannot be charged by Letter of Statute of the twenty fifth of *Edward* the third, yet he is within the compass of the *Salvo*, whereby it is provided, that the King and Parliament hath Power to determine what is Treasonable, and what not, and that they were confident the Lords would ratify, and approve of this Bill of theirs, and give Judgment accordingly.

The motion was stoutly opposed by three great Lawyers, (all Members of the House) *Selden*, *Holborn*, and *Bridgeman*, who made it manifest, that the *Salvo* of 25 *Edward* 3. was repealed, and that no man could now be convicted of Treason, but by the Letter of that Statute: But being put to Voice, it was carried for the Bill, and a Committee appointed for to draw it up.

This gave occasion of much talk abroad, and they who were otherwise the Lord *Strafford's* Enemies could not find Equity enough in the Bill of Attainder. Some could not conceive what difference imaginable was betwixt the Bill and the Charge presented before, for in the Charge he was accused of Treason; and the Bill (though they had no Legislative power) seemed nothing but an Affirmation of the same. Others (who would have the Bill understood of a Definitive sentence, because it was consecutive to the Proofs) were not satisfied, but that it was against all practice, that the Commons should give sentence upon the death of a Peer; and that it was against common Equity too, that the Party accusant should give the Judgment, if the complainers were admitted to be Judges. A third sort gave it out, that this was no Sentence against the Lord *Strafford*, but only a passing of a new Act of Parliament, about a matter not hitherto declared Treasonable; but yet these doubted, that by declaring the matter of Fact to be approved, and applying the censure to it, in reference to the Lord *Strafford*, it would ever be thought a Sentence against him, to blemish his own Fame, and the Blood of his Posterity. Moreover, that if they were about to make a new Act, it were strange to punish a man for the breach of such a Statute as was not yet extant in *Rerum Natura*, which should in reason refer only to future obedience. And (what is more strange) though there were a new Statute, yet by what Authority the Parliament hath or could declare any Individual or Accumulative Act, which is already, to be Treasonable, which must be Treason by virtue of a Statute, or else no Treason

at all; now there is none can be brought except the twenty fifth of *Edward* the third, whereof the Letter of that Statute cannot by their own Confession, nor was not so much as once alleaged against the Lord *Strafford*; and for the *Salvo* or *Proviso* (which they mainly insisted on) the same stands repealed by two posterior Acts of Parliament.

You have the Murmurs of all sorts of People.

The Lords fearing the Proceedings, as a beaten Path trodden out to the ruin of their own Lives and Estates, told the House of Commons in their Conference upon Thursday, That they would go on the same way they did already, and according to the Order of the House give full Audience to the Lord *Strafford's* Council in matter of Law, and that they themselves, as competent Judges, would by themselves only give Sentence in the Cause, nor was there any other course suitable to the practice and Statutes of the Kingdom, the Safety of the Nobility, or to Equity, or common Justice.

It was replied by them of the Lower House, That they were resolved to go on with their Bill, and if the same should be rejected by the Lords, they feared a Rupture and Division might follow, to the utter Ruine and Desolation of the whole Kingdom; that no content would be given to the Subject (and this was a strong Argument indeed, yet better beseeching Partiality and Violence, than the pretended Justice and Piety of the times) unless the man, who had so much intruded upon their Right, and discontented the People, might be punished as a Traytor; and for the practice of the Kingdom, that no man had ever found such a favourable hearing, and that the Process against *Essex*, *Norfolk*, *Somerset*, were all of them closed up in one day.

Upon Friday the Lords gave Answer, That they could expect nothing from the House of Commons, but what should tend to the Peace and Preservation of the Kingdom; nor was there a more forcible way than to preserve the Laws and Customs thereof, lest Innovation so much complained of by them, might unhappily be found among themselves: That the Subjects should have all that Justice could afford, but that an Act of Injustice would never give satisfaction to the World, nor safety to themselves; the Eyes of all Foreign States being fixed upon the business now in agitation, and the wisdom of our Nation either to be much advanced or depressed by their Judgments in this Case: That the Process against *Norfolk* and *Essex* (for *Somerset* was convicted only of Felony, and had not so much Animadversion to save himself by his Book) were for direct and formal Treasons, comprised in one or two Individual Acts; but this against the Lord *Strafford* only Arbitrary and Accumulative, to be picked out of Twenty eight Articles. And therefore that it was impossible to have a full Examination of them all, to give Sentence against him; and those Noble men were charged with some Actual breach of Statutes, formerly made; but here a new Statute was to be made, or else he to be found guiltless. They concluded, that they had given Order for his appearance on Saturday, and that in the Great Hall at *Westminster*, where the House of Commons might, if they pleased, be present.

After some deliberation with the House, the Conferrers answered, That since the Lords had so resolved, they would not deny to be there present, and to hear what his Council could say for him, but to reply any more in public, they neither could nor would, because of the Bill already past; only if the Lords should take any scruple in the matter of Law, they would be ready to give them satisfaction by a private Conference, (so they willingly declined to do what indeed they could not possibly do) that is, to give public satisfaction in the matter of Law.

Upon Saturday they convened in the Great Hall, but they that were of the Committee for the great Charge, did not stand at the Bar as before, but sat promiscuously with the rest of their Fellows, so that a mouth was not opened in the behalf of the House of Commons all that day. After they were set, the Lord Steward told the Lieutenant, That the Lords had resolved to give him a fair hearing in the matter of Law, and therefore desired that the Council might keep that distance, moderation, and respect, to the Judicatory that was fitting, and not at all to meddle with the matter of Fact.

The Lieutenant replied, That in all humility he did acknowledge that favour from the Lords, and that it was such an one too, as he could not but expect from such honourable Peers, and just Persons, in whose integrity and goodness (under that which he had placed above) he had reposed his chiefest confidence; for his Council, they knew much better than himself what concerned the point of Discretion and Reverence, and that he doubted not but that they would give all satisfaction and obedience.

Then his Council were called to the Bar, Mr. *Lane*, the Prince's Attorney; Mr. *Gardiner*, Recorder of *London*; Mr. *Lee*, and Mr. *Lightfoot*. Mr. *Lane* spake, and much to this sense and purpose.

My Lords, there is an heavy Charge lieth on me and my Fellows, nothing less than to defend the Life, the Estate, the Reputation, yea the Posterity of this Honourable Person at the Bar; if therefore we shall be more pressing, we hope your Lordships will interpret this our forwardness to be for Honour and Conscience sake, in a matter that concerneth both so nearly: But it shall be our endeavour to carry our selves with our best respects to your Lordships, and with all content and satisfaction to the honourable House of Commons; and because your Lordships mentioned the matter of Fact, one thing I dare be bold to say, that all the time of this Noble Lord's defences, he did not so much as crave any one of our Opinions, yea, or acquainted us with any thing that tended that way: And for the matter of Law, those Statutes cited by himself were none of our stock, but taken up at his own adventure; nor do I speak this to derogate from the pertinency of those Statutes (for they shall be the subject of my discourse) but that the Noble-man be not disappointed of your right Conceptions, and his own due Praise.

My Lords, It is your pleasure we meddle not with matter of Fact, and indeed we need not meddle at all with it, because we hope it is already done, and that sufficiently to our hands, yet the matter of Law doth so naturally arise out of the matter of Fact, that of necessity (under your Lordships favours) we must somewhat grate on this, if we speak of that; nor do I conceive it possible for us to speak advantageously enough for the Lord *Strafford's* just defence; unless the whole matter of Fact be determined, either as proved or not proved, or at least some states of Questions agreed upon, where we may fix and settle our Arguments, and therefore it is, my Lords, that I have chosen not at all to touch the matter of Law (until your Lordships shall be pleased to chalk me out a way) unless it be to clear your judgments in one Statute only, viz. 25 *Ed. 3.* Because when the same was alleged by the Lord *Strafford* in his own Defence, that not being convicted of the Letter thereof, he could not be convicted of Treason; I remember the *Salvo* of that Statute was much insisted upon by those from the House of Commons, as much conducing to their own ends. My Lords, I will first speak of the Statute it self, and then of its *Salvo* or Provision: The Statute is, (That if any man shall intend the death of the King, his Queen, their Children; kill the Chancellor, or Judge upon the Bench; imbase the King's Coyn, or counterfeit the Broad-Seal, &c. he shall be convicted and punished as a Traytor) that the Lord *Strafford* comes within the Letter of this Statute is not so much as once alleged, nor indeed it cannot be with any reason; all that can be said is, That by Relation, or by Argument *à minore ad majus*, he may be drawn thither, yet that this cannot be, I humbly offer these Considerations.

First, This is a Declarative Law, and such are not to be taken by way of Consequence, Equity, or Construction, but by the Letter only, otherwise they should imply a contradiction to themselves, and be no more Declarative Laws, but Laws of Construction, or Constitutive.

Secondly, This is a Penal Law, and such (if our Grounds hitherto unquestioned hold good) can admit of no Constructions or Inferences, for Penalties are to persuade the keeping of known Laws, not of Laws conjectural, ambiguous, and by consequence, which perhaps the most Learned may not in their Disputes question, much less the Subject (who is not obliged to interpret the Statute) doubt of in the point of Obedience, yea rather without any doubt, he is to obey the Letter of the Statute, and conceive, (and that truly) that he is not lyable to the Penalty.

Thirdly, We have a notable Law, 13 *Eliz. cap. 2.* whereby it is declared, That the bringing in of Bulls from *Rome*, to stir up the Subject to Mutiny and Rebellion, shall be punished as Treason: Now if by interpretation, or by consequence, this sence might have been thrust upon the preceding Statutes; the making of this had been superfluous, yea the persons then charged with that Crime, might have been impeached of Treason, even before the making of this Act.

Anno 21 of Ed. 3. We have a Statute declaring, That for a Servant to kill his Master is an Act of Treason, and in the three and twentieth year of the same King, a Process of Treason was framed against a man for killing his Father, grounded upon the same Argument *à minori ad majus*: But it was found (and the Sentence is yet in the Records) that although in the one and twentieth year of *Edward* the third, that Argument might have been admitted, yet in the 27 it could not, by reason of the Declarative Law intervening in the 25 year, and this Case comes very home to the Point in Law.

My Lords, I will not demand what kind of Offence it may be, for a man to subvert the fundamental Laws of a Kingdom, the Crime doubtless is unnatural and monstrous, and the punishment must keep the same proportion; only I presume to offer these few things to your Lordships considerations.

First, That one or more Acts of Injustice, whether maliciously, or ignorantly done, can in no sence of Law be called the subversion of the fundamental Laws; if so, as many Judges (perhaps) so many Traytors. It is very incident to man's Nature to err, nor doth the Lord *Strafford* plead his innocency in over-sights, but in Treason.

Secondly,

Secondly, I do remember the Case of *John de la Poole*, Duke of *Suffolk*, this man in the twenty eighth of *Henry* the Sixth, was charged by the House of Commons with Articles of Treason, and those too very like to these against my Lord *Strafford*.

1. That he had given the King bad advices.
2. That he had embased his Coyn.
3. That he had fessed men of War.
4. That he had given out summary Decrees.
5. That he had Imposed Taxes.
6. That he had corrupted the Fountain of Justice.
7. That he had persuaded the King to unnecessary War, and to the giving over of *Anjou* in *France*, *Ovum Ovo*.

And for all these, though he was Charged with High Treason, for wronging the right of the Subject, and subverting the Fundamental Laws of the Kingdom; yet after a long Agitation, the matter was found by the Lords of Parliament, not to imply Treason, but only Felony. Add to this another, who in the twenty third of *Henry* the eighth, was charged for subverting the *English* Laws, and yet no Treason charged upon him. Add to both the Charge of *Richard Lark*, pleaded at the Common-Pleas, who was charged with Treason for subverting the Law, but convicted only of Felony, by which you may see, my Lords, what to this time hath been subverting the Laws.

Thirdly, It is very considerable, that the Lord *Strafford* is not charged to have subverted, but only to have intended to subvert the fundamental Laws, and this I conceive, if there were no more, might keep him free from that Statute of the twenty fifth of *Edward* the third: For although as touching the King, his Queen, and Children, intention is Treasonable; yet in all other things there mentioned, there must be action beside intention; for it is not said, if a man do intend to kill a Chancellor, it shall be Treason, but only if he do kill him; and if he doth actually counterfeit the Broad Seal: And although a man should prepare a Furnace, make ready his Stamp, melt his Bullion, yet if he gives not the King's impression upon the Coyn, all his intentions, yea, his preparations will not serve to make up a Treason.

And this (under favour) may serve to answer the Case of *Guido Faux*, lately objected, unless it be alleged, that the Lord *Strafford* had as real an intention against the King's Life as *Faux* had: For though the intention in that Case be Treason by the Statute, yet in all other things there is no Treason without the Action, so immense and vast a difference both is, and ought to be, betwixt a project against the Royal Blood, and all things else of a lower and under Nature.

You see therefore my Lords, that the body of the Statute cannot stick against the Lord *Strafford*, neither in Letter, nor in consequence, this is not, that must not be; all that can be said is, that his Fact may be Treason by the Common Law: For my part, I profess my ignorance, who ever thought the Common Law might declare, but never make a Treason, that is, it might be presupposed that there is a Statute whereupon to build a Declaration, and therefore to say there is no Statute for it, is to say it is no Treason at all. The Statute ever makes the Treason; and to be declared to be Treason, either by Common Law, or by Parliament, are but two different ways of Proceedings, and must both resolve into one Principle, yea, which comes home to the point, in the one and twentieth of *Edward* the third, To kill a man employed in the King's War was Treason; and the twenty third, To kill the King's Messenger was Treason by Declaration of the Common Law, but always by reason of the Statute, yet none of these are now Treasons but Felonies only, by reason of the intervening Statute the twenty fifth of *Edward* the third, such hath ever been thought the force of its Letter and Declaration: And so I will leave it, and speak a word or two of the *Salvo*, which is this. That because all particulars could not be then defined, therefore what the Parliament should declare to be Treasonable in time to come, should be punished as a Treason.

And according to this Reservation, in the eighth year of *Richard* the second, one who was charged before the King's Bench, was afterwards referred to the Parliament, and there, though the Fact was not contained in the body of the Statute, yet because of the *Proviso* afore-mentioned, it was adjudged Treason.

In the eleventh year of the same King, the Duke of *Ireland*, and *Nevil* Arch-Bishop of *York*, were impeached of High-Treason by *Gloucester*, *Arundel*, and *Warwick*; and notwithstanding the Statute, were convicted thereof by the *Salvo*. But in the one and twentieth of the same *Richard* the second, the Tide turned, and the King had such a hand with the Parliament, that the Sentence was recalled, and those three Noble-men themselves adjudged Traytors. Again in the first of *Henry* the fourth his Successor, that Revocation of the one and twentieth of *Richard* the second was repealed, and the Sentence of the eleventh of his Reign established; such were the tossings too and fro of Treason, and all because of that uncertain *Proviso*.

Therefore it was, That in the same Parliament the first of *Henry* the fourth, a Petition was preferred by the Nobility to have Treason limited with some Statute.

Because they knew not what to speak; or what to do, for fear thereof; and in the tenth Chapter an Act was made upon this Petition, that the *Salvo* should be holden Repealed in all times to come, and nothing esteemed Treason but what was literally contained in the Statute of the twenty fifth of *Edward* the third; and therefore it is said in the Records, That there was great joy at the making of this Act; in that the drawn Sword hanging over every man's head, by this slender Thred of a consequence; or illation, was moved by that Act. Add to this, that in the first of *Queen Mary*, the first Chapter, the same is repeated, That no man shall be punished in Life or Estate as a Traytor, but for the Crime contained in the Statute, 25 *Ed.* 3. without the least mention of a pretended *Salvo*.

The Earl of *Northumberland's* Case comes nigh to the Point, he was charged with Treason, the fifth of *Henry* the fourth; and if the Statute of the first of *Henry* the fourth, the first Chapter, whereby this *Proviso* is Repealed, had not intervened; no doubt he had been condemned of Treason, but he was only convicted of Felony, and that because he could not be drawn within the Letter of the Statute of the twenty fifth of *Edward* the third; and I dare confidently say it, that since that Act was made, the first of *Henry* the fourth, the first Chapter, whereby the *Proviso* is Repealed; no man hath ever been declared a Traytor, either by King or Parliament, except it were upon that or some other Statute, literally, and declaratively taken. These two things I do offer to your Lordships considerations. That the Lord *Sirafford* cannot be impeached of Treason, by the Statute of the twenty fifth of *Edward* the third, and that the *Salvo* contained in the same stands Repealed almost two hundred years ago, and this is all I conceive to be necessary for that Statute which was alleged by the Lord *Sirafford* in his Defence for matter of Fact.

Then the Recorder spake some few Words to this purpose, That what was spoken upon the Statute, was because it seemed inseparable from the matter of Fact, that they could proceed no farther, 'till a State were afforded them, that to do otherwise they conceived might be very prejudicial unto my Lord *Sirafford*.

First, In that they should suppose that to be done, which is not proved to be.

Secondly, That the matter of Law ariseth so naturally from the matter of Fact, that it will be impossible to separate one from the other.

Thirdly, That it is the course of all Judicatories, first to settle the Verdict; and upon that to fix the Arguments, otherwise he could conceive no possible way of proceeding; and therefore, in the Lord *Sirafford's* Name he most humbly entreated, that the Lords would either wholly determine the matter of Fact (or whether Treason or not; for then all other proceedings in the Law were unnecessary, but whether done or not done) or else to give them some States of the question whereunto they might confine themselves.

Upon this motion the House was adjourned for that day, nor hath it met since, for the House of Commons are turned to their old byas, and will hear of nothing but the Bill of Attainder, but the Lords seem to be more resolute than before, because they find that they have no Authority to declare a Treason in a Fact already past, the *Salvo* of the twenty fifth of *Edward* the third being Repealed, withall that if the Bill of Attainder should proceed, the King hath as great power to hinder that at the last blow as any other Statute, but I hope the Lords will disburthen him of that envy.

All the which stand obliged to the Lord *Sirafford*, in blood, affection, or deserving, and all who have been interested with him in the King's Service, and many too, who both hate his person; and dislike his proceedings, will doubtless look upon it, and tender their own safety, all of them in likelihood being subject to the Charge of Treason, if ever they chance to be called to do the King Service in any place of importance.

I cannot express how much the voice of the multitude is now altered from what it was lately, nothing now talked of what should be done, but only of what must be done: So that if the Lord *Sirafford* dyes, his very Enemies will confess that it is done more for necessity than for Justice, and rather for the satisfaction of rancorous apprehensions, than for any guiltiness in the Cause.

Thursday last, (*viz.*) April 29. was designed for the Agitation of the long intermitted business concerning the Lieutenant, and the way was this:

The Lords did meet at the Great Hall at *Westminster* about Nine of the Clock, not in their Robes, nor did the Lord *Steward* sit upon his Sack, but with the rest promiscuously, nor did the Committee for the House of Commons stand at the Bar, but sat with the rest of their Fellows, and the Earl of *Sirafford* sat behind the place where he used to sit before; the reason of these changes were, because the Diet was appointed, not for a Meeting but for a Conference, so curious are we (and that's all) about formalities:

The

The King, Queen, and Prince were there, according to their Custom, not a man spake a word in the House all the time, but only Mr. St. John, the King's Solicitor, one of the Committee, whose drift and purpose was to furnish the Lords with reasons, why the House of Commons had proceeded with a Bill of Attainder: And withal, to reply to what the Lord Strafford had spoken, either by himself, or his Council, in matter of Law.

The Speech is in Print.

If it were not without my share to give my opinion of Mr. St. John's Speech, it should be this, That he spake little or nothing to purpose, except, in his fifth or sixth Arguments, and in them, I believe without his book, if not, I should conceive it better and safer to live under the Laws of any other Nation, than these of England, where all Law is, at last, resolved into an Arbitrary power, and that by these very men, who so much elsewhere inveigh against it: Of the Presidents which seem to pinch hardest, many of them were since the Proviso Repealed (which is an Argument, in my apprehension of the Pleaders' perversity) others nothing to purpose, as that of Felony, &c. to the other few, if Lawyers can give satisfaction, I am confident Mr. St. John did rather advantage, than hurt the Earl by his Pleadings.

The next news which we expect to hear, is with what Resolution he went out of this World; for it is concluded amongst the major part of his Judges; that one must die for the People. It were well, if the blood of one, two, or three could satisfy. The Bill, for certain, is past the higher House, to which, 'tis thought, the King will be perswaded to give way. The Scaffold is built upon the Tower-Hill; God grant him Mercy for his other Sins, and I hope he will easily answer that of Treason: He dies, as we hear, upon the Twenty third Article, for the words attested by Sir Henry Vane, though His Majesty publicly protested the Words were never spoken by him.

Upon the close of Mr. St. John's Speech the House dissolved; nor was there a Word spoken but by Mr. St. Johns, only the Lord Lieutenant used the last part of his Rhetorick, and by a dumb eloquence. *Manibus ad Sydera tensis*, all along Mr. St. Johns Speech, made his Replies with a deprecience.

Upon Friday, he Petitioned the Lords to be heard again, and that, because his Lawyers had not fully spoken at their last meeting; but this was denied him, because the House were to have the last Speech, nor were they content to speak again.

Upon this Information, or what else is not known, the King (it seems, fearing the Inconstancy of the Lords) came to the House on Saturday, at Ten of the Clock, and having called for the House of Commons, spake much to this effect.

The King's Speech to the House of Commons.

That He had sincerely, without Affection or Partiality, endeavoured to inform himself concerning the Lieutenants Charge, and had, at length, seriously pondered with himself, both concerning the matter of Fact and the matter of Law; and now it stood him in hand to clear their judgments; then to exonerate his own Conscience: For them, He had two things to declare,

First, That there was never such a Project, nor had the Lord Strafford ever offered such advice, for the Transporting of the Irish Army into England; so that in nothing the Lieutenant had been more mis-understood than in that: which imputation, did in no small measure, reflect on himself (the King) as if he had intended to make War upon His own good Subjects; which thought (he said) was far enough from his Breast; nor could any man in probability think so unworthily of him, who had perceived how graciously he had dealt with His Subjects elsewhere, that had deserved a great deal worse.

Secondly, That the Lieutenant had never advised him to establish an Arbitrary Government; nor, if he had, should he have escaped condign punishment; nor would any of His good Subjects ever think otherwise, unless they conceived him either to be a Fool, or a Tyrant; that he either could not, or would not discern such wickedness. He was well content (he said) with that Authority and Power which God had put into His hands; nor should he ever think it His Prerogative, to intrude upon the Propriety of the Subject.

For Himself, and His own Conscience (he said) he was now to Declare, That in His own judgment, there was nothing in the Process against the Lieutenant that deserved the censure of Treason: Over-sights, and Mis-demeanours there were, in such a measure, that he confessed the Lord Strafford was never worthy hereafter to bear any Office in His Kingdoms, no, not so much as of a Constable; but was to be answerable for all his Errors when they were to be charged upon him, and to this none of them should concur with greater alacrity than himself; That he hoped, none of them would deny to give him the privilege of the first Voice, which was, That he would never, in heart nor hand, concur with them to punish this man as a Traitor, and desired therefore, that they would think of some other way how the Business might be composed; Nor should it ever be less dear to him (though with the loss of His dearest Blood) to protect the Innocent, than to punish the Guilty.

At this the House of Commons startled, and adjourned themselves till Monday; divers censures are past upon the King's Speech; even of those that lov'd His Honour; some think he was drawn to this, by a certain fore-knowledge of the Lords facility to give way to the Commons, and that it was better to express himself then, (if by that means he could hinder the Sentence.) than to countermand the Execution thereof, when it was passed, and so draw all the envy upon himself: Others are of opinion (which is more probable) that this hath been a Plot of the Kings become enemies, to set him at odds with His Subjects, that thereby they might Fish the more securely in these troubled Waters. The reason is, because it is very likely the Lord Strafford might have passed free by the Voices of the Lords; but now howsoever the matter falleth out, all the blame will be imputed to the King; for if he be condemned, it will be no thanks to the King; if justified, that will certainly be laid to the King too, as who by His Threats and Menaces hath forestalled the Voices of his Nobility: It is conceiv'd by wise men (and such as wish no evil to my Lord Strafford) that it had been far better both for the King and him, to have first tryed the utmost of the Lords; for the King, because it was both possible and probable that he might have gained the Declaration of the Lords for him; if not, it was time enough to Interpose His own Power afterwards; for the Lord Strafford, because it hath made the House of Commons a great deal the more pressing, fearing, by the King's Peremptory Answer (from whom, in regard of the advantage of the times, they expected nothing but a *Concedimus omnia*) that there is some Plot under hand. And these thoughts produced the late tumults of the *Londoners*, of which more by and by. And it is verily thought, that for these two Reasons, the Lieutenants seeming Friends, but indeed real Enemies, have put the King upon this way, hoping thereby, that the Lords should find occasion to pretend necessity of doing that, which perhaps, in regard of common equity, or the King's displeasure, they could, nor durst have done; howsoever *Falsa est alia*, the King is now so far engaged, that with respect to Honour and Conscience, he cannot retire; for if the Procedure be by a Legislative Power, it falls directly upon him, nor can he give his assent; if by a Judiciary, then must he either hinder the Execution, or be said to have Charged himself with Injustice.

This hath produced strange alterations, even the Marriage of the Prince of Orange, (done on Sunday last, May the second, with ordinary Solemnity) is now exceeding hateful to the Commons, which so much before desired it; some say, the Precipitation of that Marriage Imports no good; others, that the Parliament had condescended to that Marriage, but did not expect that Acceleration; a third sort, that the Party is mean enough, if not too low for the King of England's Eldest Daughter; all of them, that the Dutch-men have offered Money to the King for a new Service of War, and have thereby bought this Honour; this is increased by the Landing of a Dutch-man, who is to be Gentleman of the Kings Horse; And shortly with us the Hollander will be no less odious than the Spaniard. Oh, the wonderful changes of the untoward, unconstant, and giddy multitude! How unhappy a time it is to know what Liberty means! and to get the Reins cast about their own necks; it ranges madly up and down *nec modum tenens nec terminum*, nor is capable of subsistence, till it hath lost it self, and what it so much affects, Liberty: So Knives are put into the hands of Children, who discern no danger, but affect them for their splendor and glittering: So Poyson into the Mouths of Fools, which is judged only by the Taste and Sweetness. But it seems, the Judgment of this Kingdom cannot be prevented; and because they have sinned against themselves, by abusing their Plenty and Fatness, it is the just Judgement of God, that they be the Executioners of his Judgments upon themselves.

Before I tell you of Monday and Tuesdays Madness, I must tell you when and whence this fury hath its first motion.

Upon the Thursday before, a great many Apprentices beset the Spanish Embassadors House, near Bishops-gate, threatening to pull it down, and kill the Man; the Mayor of London comes amongst

amongst them, and with a great deal of pains, persuaded them to retire home, and afterwards entered into the Ambassador's House; at his coming in, the Ambassador desired him to pull down his Sword which was carried before him, because he was now where the King of Spain had Jurisdiction. That being done, he told the Lord Mayor, that in all his life time he had never seen such a barbarous attempt, and desired to know whether England was a Civil Nation or no, where the Law of Nations was so manifestly violated. The Mayor replied, That they were of the hale and rascally sort of People, and intreated the Tumult might not be imputed to the Town. The Ambassador answered, That he could hardly acknowledge that to be a Town, yet scarce a Society of Men, where there was so little Civility and Government. The Mayor told him, That the people were discontent because Mals was said in his house. The Ambassador replied, That the English Ambassador had the free Exercise of his Religion at Madrid, and that he would rather forgo his life, than any of those Privileges due to him by Faction, and the Law of Nations. The Mayor answered, They were the more incensed against him, because the Londoners popishly affected, were permitted to come into his house to Mals, which was beyond both Law and Custom. The Ambassador replied, That if the Mayor would keep them without doors, he would promise to send for none of them; but if they came once within his doors, he could nor in preservation of his Conscience, or his Master's Honour, deny them either access to his Religion, or safeguard to their Persons, as far as in him lay. Upon this a Guard was appointed to attend the Ambassador's house, whether to keep out Papists, or to preserve them that were within, or to let in others, is yet to be disputed.

The storm was quiet from thence till Monday, when the people being inflamed again by the King's Speech, came to Westminster with the number of five or six thousand, having Weapons and Battoons in their hands; at the entering of every Coach some cried Justice, others Execution, a third man told his Fellows that both were to be conjoyned, and that Justice and Execution was the noble Word; upon which (*quasi dag sign*) all the Rabble cried aloud with one voice Justice and Execution, with a wonderful strange noise. Some went to the Coach side and told the Lords, that they must and would have Justice done upon the Deputy. In particular, above 1000 of them beset the Lord Steward's Coach, and demanded Justice and Execution of him; Justice, said they, we have gotten already; and we only desire (and must have it) Execution. The Lord Steward replied, they should have Justice and Execution, and desired them only to forbear, and have patience a while: No, said they, we have had too much patience, we will not suffer longer; and therefore, my Lord, before you go from us you must grant us Execution. The Lord Steward told them, he was going to the House to that effect, and that they should have all content. But whilst they were about to detain him longer, some of the greatest Power amongst them said, We will take his word for once, and with difficulty enough made passage for him.

The Lords stayed within till twelve of the Clock, nor was there any course taken in the meantime for dissolving of the multitude; the greatest part of them went home the back way by Water; only when the Lord Holland, Lord Chamberlain, and Bristol, came out to their Coach; all of them called Justice and Execution; but when they perceived that Bristol was in the Coach, they drew near the Coach side, and told him, For you my Lord Bristol, we know you are an Apostate from the Cause of Christ, and our mortal Enemy; we do not therefore crave Justice from you, but shall (God willing) crave Justice upon you, and your false Son the Lord Digby.

Let a man cast his Eyes back now but for some few Months past, and he shall see what trust may be reposed in the favour of the giddy multitude, unless a man shall resolve to quit all Religion and Honesty; and to mould and fashion his Conscience to the present distemper and fancy of the people, neither can he do so safely, when so much hazard lies in the Inconstancy of their Conceptions.

After this they drew up all the Names of those, either in the House of Commons, or the House of Lords, whom they imagined to favour the Lieutenant, and gave them the Title of *Straffordians*, with this close, That all those, and all other Enemies to the Common wealth, should perish with him; and did post up the Paper at the Gate of Westminster, as if the old Democracy of Rome, and the Tribunial Power thereof in *Cippo proscribere*; were now renewed and revived.

A Copy of the Paper, posted up at the corner of the Wall of
Sir William Brunkard's House, in the Old Palace-Yard in Westminster,
Monday, May 3. 1641.

The Names of the Straffordians posted.

1. Lord Digby.
2. Lord Compton.
3. Lord Buckhurst.
4. Sir Robert Hatton.
5. Sir Thomas Fanshawe.
6. Sir Edward Alford.
7. Sir Nicholas Slanning.
8. Sir Thomas Danby.
9. Sir George Wentworth.
10. Sir Peter Wentworth.
11. Sir Frederick Cornwallis.
12. Sir William Carnaby.
13. Sir Richard Winn.
14. Sir Garvis Clifton.
15. Sir William Witherington.
16. Sir William Pennyman.
17. Sir Patrick Curwen.
18. Sir Richard Lee.
19. Sir Henry Slingsby.
20. Sir William Portman.
21. Mr. Garvis Hollis.
22. Mr. Sydney Godolphin.
23. Mr. Cooke.
24. Mr. Coventry.
25. Mr. Benjamin Weston.
26. Mr. William Weston.
27. Mr. Selden.
28. Mr. Alford.
29. Mr. Floyd.
30. Mr. Herbert.
31. Captain Digby.
32. Serjeant Hide.
33. Mr. Taylor.
34. Mr. Griffith.
35. Mr. Scammon.
36. Mr. Bridgeman.
37. Mr. Pettus.
38. Dr. Turner.
39. Captain Charles Price.
40. Dr. Parry, Civilian.
41. Mr. Arundell.
42. Mr. Newport.
43. Mr. Harborne.
44. Mr. Noell.
45. Mr. Kirwin.
46. Mr. Pollard.
47. Mr. Price.
48. Mr. Travannian.
49. Mr. Jane.
50. Mr. Edgercombe.
51. Mr. Chicheley.
52. Mr. Maltery.
53. Mr. Porter.
54. Mr. White, Secret. E. D.
55. Mr. Warmick.

This and more shall be done to the Enemies of Justice afore-written.

Nor stayed they here, one of them in the height of his fury cried out (*Homoſco Referens*), if we get not satisfaction of the Lieutenant, we will have it of the King, or, as some say, worse, If we have not the Lieutenant's life, we will have the King's. Oh impious Mouth! Oh un-natural Miscreant! This Man was marked by a Gentleman of the *Inner of Court*, and four or five requested by him to bear witness of the Words. Nor did he stay here, but the Gentleman (with fidelity and courage enough) went to the fellow, and kindly invited him to drink a Pint of Wine, the Fellow suspecting nothing went along with him, but in the mean time he sent for a Constable, in whose hearing he asked how he durst speak such Words as those; he like a mad-man replied, That he would maintain them: Whereupon he was apprehended by the Constable, and committed to the Gate-house, where he was three or four times examined yesternight; some report that he freely confessed his Words, and withall, threatned to shew great Authority for them, even within the Gates of the Court. This day I hear little of him,

him, but some say, the business will be subber'd over with this. That he said only, If we get not satisfaction of the Lieutenant, we will go to the King. And it is likely this will be the issue of the business, lest this zeal should be quenched in the breeding and beginning, whose discharge and exerts is laudable, yea necessary, in a time of Reformation. Add to this, that if this man should suffer it might settle and calm the forwardness of the people, before the whole business be ended about the Earl of Strafford.

They have further threatened, that after *Wednesday* they will shut up their shops, and never ret from petitioning, till not only the Lieutenant's matter, but also all things else that concern a Reformation, be fully perfected.

The house of Commons sat all that day, (*Monday*) till 8 at Night, nor were they idle all that time, but brought forth that Protestation, or band of Association (as they term it) which is now in print, it was then drawn up, and without further process or delay before they came out, subscribed by the whole House, except the Lord Digby, and an Uncle or Friend of his.

It is thought by some (whose heads are not green) that it is very like a Covenant in Scotland, but that must be left to further time and wiser heads, if that Comment that perhaps will follow, be not worse then the text, it may in probability happen out to be canonical enough, but the too general Phrase in it, lyes very open to have senses (*pro re nata*) thrust upon them, which may, be very justly suspected to have been intended; where the Oath and Law-giver, is the party, only some have observed two remarkable things upon this.

First, Some think it strange that being the House of Commons have lately fined the Convocation House, upon this ground especially, that they enjoined an oath, which is a Legislative power (say they) and only due to Parliaments, how they at this time, (as if all the Legislative power were in them) without the advice of the Lords (I say not of the Church, though in matters Ecclesiastical) or approbation of the King (which is conceived to be a mighty encroachment upon his Prerogative) should offer either to prescribe, or subscribe such an Oath, as if it were essential to our Reformation, ever to be done by the people, without Authority of the Superior Powers, and yet before it pass into a Statute it must come in by a Bill after an *act of parliament*, but perhaps it is hoped that by this Anti-dated subscription, they shall find out the more easy passage for the Bill when it comes to be propounded.

Secondly, That the House of Commons were four hours pleading, upon that one expression in the Protestation, [*The true reformed Religion expressed in the Doctrine of the Church of England*]. Some who were more tender toward the Church, and desiring that the word Discipline, might be adjoynd to the word Doctrine, but others mainly opposed that; reasoning that no Discipline could be admitted, but all to be esteemed as Popish that was not contained in the Doctrine, that is in the word of God, which party at the last did prevail, though the other affirmed, that there was more express warrant in the word of God for Bishops, than for ruling Elders; but if some Hint be not there intended against the Deans and Chapters, the Lyturgies, and Ceremonies, yea the very Bishops of the Church of England, let any man judge, and of what dangerous consequence that may be, if those who pretend to have authority in all Church Affairs, may be permitted to give Sentence, is not difficult to determin.

This day the people met again, but in smaller numbers, they have threatened to come to morrow with all their main forces, and not to desist till the Lieutenant be executed, and their other petitions obtained. The Oath was likewise presented to the Lords, and some say all of them (except the eight Recusant Lords, and four of the Bishops) have signed the same, but others say they have only admitted the Bill, which is more likely. I think it is *Lucan* tells us the tale, That when the 100 handed Gyant *Briareus* (whom the Mythologizers of Poems use as a Type of the multitude) was first brought into the world, his Father *Jupiter* desired *Mercury*, to set his Scheme, and calculate the Stars of his Nativity; no Father, said *Mercury*; that is needless, a little time will shew his disposition, for so many hands cannot belong idle: A very lively Idea of this business now in Agitation: Your self may make the application by the events.

Upon *Saturday*, May the eighth, the Bill against the Lord *Strafford* past the Lords, *Saturday May 8.* there were forty five present, of which nineteen voiced for him, and twenty six against him, the greatest part of his friends absented themselves upon pretence, (whether true or suppositious) that they feared the multitude, otherwise his Suffrages had more than counterpoised the Voters for his death.

In the Bill he is condemned of Treason, and all his English Lands (the other part of the Coat is left for those in Ireland) forfeited, with an especial Proviso, that this Act shall in no wayes be forceable against others, than if it never had been made; which to his friends of Judgment linells strongly of a particular hatred against him, as if the same common way of Justice should not equally strike against all (which it should do in true Justice) but that Crimes did differ in their Subjects.

Two ways there were to have proceeded against him, by a Legislative, or by a Judiciary power, both did strike home alike at his life and his Estate, both alike ready, both sure by reason of the proofs, the Difference only this; this might have been done without the King, that only by him, because this is a Sentence, that a Statute: A man would think the Judiciary way had been the more sure, and that the King would rather have connived, and not exercised his Prerogative by a Reprieve, than to have interested himself in the Legislative proceedings, by consenting to the Act against him; in whom the world conceived (for by past and future services) he had so great an interest: But they (it seems) notwithstanding his Majesties late Attestation, of the Gentlemen's Innocency in point of Treason, were more confident of his gracious Inclination to Justify their own Act; and more desirous too that he should demonstrate his willingness in punishing such transgressors, and therefore the Bill went on by the Statute.

The same day another Bill passed both the Houses, that because of the important business of the Kingdom, the Parliament should not be broken up by the King without the special advice and consent of both the Houses, till all their grievances were redressed, and their safety provided for, which space of time, for any thing I know, may last till dooms day; some would have had the prescription of 3, some 7, some 9 years put to it; others replied, that this would be both odious and dangerous; odious, in that it should seem so long a Parliament, dangerous, in that the time may happen out possible to be longer; some think it an honour (rather a fatality, or to sweeten the word a Providence) that both their Bills should pass at once, as if [*Geminaris munus*, were *Corruptio alterius*.] And this new Government should take life from the death of the Earl of Strafford.

In the afternoon the House of Commons desired access to the King in the Banqueting House; and having stayed there an hour for his coming, in three words they propounded these two great Bills, desiring that he would give his Royal Assent to them both (*Quod si non profuerit singulis, Junctis Tamen*). Withall humbly shewing that the present danger of the Kingdom could admit of no delays. The King told them they should expect an answer on Monday Morning.

The Court at this time was surcharged with a confluence of People, *quasi Civitas tota sedibus suis mota*, as if the whole City was come to petition for Justice, a Government indeed worse than a Democracy, where the people do not rule but play the Tyrants: If there were no Monarchy there needs no conscience to obey it; But where it is, and cannot protect it self, the good subject must either forget himself, or his loyalty; A two edged sword killing either the body or the soul, nor in this are men in better case than the winged Fishes, that our Southern Mariners tell us of, which, if they swim beneath the water are catch'd by Dolphins, if they fly above for refuge, snatch'd away by the hungry Ravenous souls, (Lord help then the times, or help our patience, and Resolutions, give us either redress in thee, or confidence in thee.)

The wiser sort conceived these two Bills too big for them to desire at once, and that both of them together might procure a flat denial, but the more courageous knew the readier way by far, having often had experience of his Majesties readiness to grant just desires; resolving that he that expects to lose the day, is beaten at his own diffidence, and it is the quality of some men to swallow Camels upon a sudden, who (if you give them leisure) will perchance strain at a Gnat. Their Resolutions may aim at this, but despair to remedy that; Nature gives the reason, *Omne agens se exercet intra sphaeram Activitatis*. Dangers, if they come but stragling upon us, we may collect our spirits well enough, and easily resist them; but if they come by whole troops, Amazement and Fear admits of no consultation for the future, but only intends to decline the present and pressing hazard; whereon the ancient Gauls made their first onsets, with valour beyond the courage of men, and with fearful cryings and shouts belying their own Animosity, to stupify and quell that of the enemy.

Sunday, All the day the King was resolute never to give way to the Bill against the Lord Strafford, telling them withal, that it seemed strange to him, that the man could not dy, unless he, and he only; by giving Sentence the Kings Legislative way, should condemn him: The Lord Pembroke brought the King a piece of Scripture, 2 Sam. 19. from the 3 to the 9 verse; the words indeed became a *Joab* rather than himself till he had scattered the force of the Kings (not eldest Son yet eldest) Daughter, the Kingdom of Scotland; here is some Analogy with *Absalom* and in nothing else, for *David* was sorry for shedding the innocent, they not sorry for shedding the innocent blood, though the Issue be not the same.

Four Bishops were sent for by the King, the Primate of Ireland, the Bishop of Durham, Lincoln and Carlisle: Some say (and I do rather believe it) that the King was desirous the Bill should be voiced again, and argued, the Bishops had their suffrages in the admission though not in the approbation of the Bill, others think in regard the Primate was there, (who had no Interest in this Kingdom) it was to resolve the Kings Conscience; for my part I see not how they should do this, seeing the business was grounded upon a case in

Law;

Law, which none of them (unless the Bishop of *Lincoln* had learned when he was Lord-Keeper) could possibly discuss; for if the King was tender in it, how could they persuade him to give way, if not, what needed their Resolution?

But it may be that they persuaded him, that in conscience he might prefer the Opinion of the Judges before his own, and that if (though with some reluctance) they thought upon their Oaths, the Proceedings to be lawful, he might give way to them. This is not unlikely, because the Judges were sent for the same time, and it seems, for the same Service; and if it be so, I admire (and adore too) the wonderful providence of God, who in his preparatory Act, to this unlawful Judgment (which undoubtedly will follow) suffers not only the King and the Country, but the Church too, (as if her Cup were not yet full) to be involved.

But could this be to the matter of Fact, the King I am sure knew him to be free from any the least intention of subverting the fundamental Laws of the Kingdom, and could the Bishops satisfy this scruple too, it may be they are persuaded, that the Proofs might be taken implicitly from the House of Commons; as the Law from the Judges: It is reported indeed that they besought the King with many Tears to give way, and that to prevent the ruin of the Kingdom, which these Statemen (who will be ever content with the longest life for themselves, till by piece-meal they be thrust from all) did see would necessarily follow. Well, I dare Prophesie to them they shall not want their Reward, neither from the King nor People, for the next tumult of people shall be against their Liturgies, surplices, and Church-Ornaments. And seeing they have now over-persuaded the King in this, if they can procure him, then to protect themselves from those imminent dangers which hang over their heads, they shall do a miracle. *Sed quos perdere vult Jupiter, dememat.* Some body else will persuade the King that to satisfy the common People, and to prevent the Ruin of the Kingdom, Bishopsricks, Deans, Prebends, and all Cathedral must down, *Sed omen avertat Deus optimus.*

Sunday, all day nothing sounded in the King's Ears, but fears, terrors, and threatnings of worse and worse, the noise of Drums and Trumpets were imagined to be heard of rebelling People from every corner of the Kingdom, yea Apprentices, Coblers, and Fruiterers, presented themselves, as already running into the King's Bed-Chamber.

After they they had wrestled him breathless, and (as they do with great Fishes) given him scope of Line wherein to spend his strength, at last, *victus dedit manus*, being overcome with such incessant Importunities, he yielded up the Buckler, And about Nine of the Clock at Night (oh deplorable necessity of the times! or rather, oh the frailty of human Nature! that can neither foresee, nor sustain this necessity) the King promised to Sign both the Bills the next Morning, which was accordingly done, and a Commission drawn up for his (I do not care in what Relation you take the word) Execution. *Ingentes Cura stupent, loquuntur levet.*

Though I had resolved with the Painter (who could not express his Grief sufficiently in weeping for his Daughter) here to have drawn the Curtain, yet it will not be, something must overflow.

Consider the Gentleman as a Man, his Judgment, Memory, Eloquence, real Perfections in this age of appearances, consider him as a Subject, his Loyalty, his Courage, his Integrity to King and Country, in these disloyal and faint-hearted times; consider him as a Christian, his love to the Church, his respect to Church-men, in this prophane and over-weaning Generation; let Worth, Honesty, and Religion, weep his Funerals, who suffers for all, and yet by all, yea as an Enemy to all these; talk not hereafter to me of Justice, Equity, or Conscience, they are but Names, and those scornful and empty Names too. It is Power, Faction, and Interest, that are the managers of human Affairs, and sways the times. I desire all History to furnish us with the like Parallel, of a man accused by his Country, by reason of his noble and eager desires to maintain them in plenty and reputation, convicted by the Church for his actual performance, and serious intention, to restore both the Dignities and Revenues thereof; his Prince even forced to condemn him, after his integrity to persuade due obedience, and to protect Royal Authority. Happy, yea thrice happy he, whose Innocence was wedded to his Perfection, and both of them (for so it shall ever be in my Kalender) crowned with Martyrdom. Forgive, I intreat you, these broken Expressions of a passionate Soul, my obligations to the Gentleman were little, my expectation from him nothing, only an ingenious, though perhaps a simple thought of the present Crimes, and future punishment of this Kingdom (unless God be more merciful) whether from the privation of his Life, or merit of his Death, hath extorted thus much from me. Remember the story of Innocent *Socrates*.

You desire me to be present, and see the Catastrophe of the business; I should pluck out mine Eyes, if I thought they had so much cruelty to behold such a spectacle; you may think it courage, but I inhumanity: My own Sins do too much interest me in his sufferings, though I be not accessory by my sight. The zealous Pilgrims of the *Turkish* Religion, after they had seen the blessed Spectacle of *Mahomet's* Tomb at *Mecca*, do presently make themselves blind by continual peering

upon hot burning Bricks, so destroying the Optick Nerves, as thinking themselves unworthy ever afterwards to look upon any worldly Object; I leave your self Sir to make the application, I dare ingeniously say it, that all my sufferings to this time (and I have not been without a round share of them) did never touch me so nearly; as the sufferings of Justice, Religion, and Loyalty, by this one Act: Not for any evil consequence to me (God knows) I am beneath the reach of Fortune, and can easily change my Climate; but for that Cloud which hangeth over the public, and will not, I fear, be dissolved till the measures of deservings be made up brim full.

What turbulency, what confusion is within me, you may easily guess by these Symptoms that are without, those raw and indigested expressions, it is my daily labour to obtain the Mastery of my self and my affections, but upon such extraordinary times and occasions, they grow too strong for me; I must give way and retire before I get new strength again: Hence it is, that though at the Lord *Strafford's* last departure out of this World, I might have been assured of his Mantle, that is, the doubling of his Perfections upon me, and of a capacity to admit of the least of them, yet I could not have attended his Execution; my heart was too weak, and my Eyes too blind to behold such a woful spectacle; but be you assured he will not dye like one of the vulgar, nor like one of those wanton Couriers who can rush fiercely into the Battel, yet withall start at his own shadow: He hath done, and can do, greater things than dye, and that too without any in-decorum. As he hath lived for the real Demonstration of his service and fidelity, so he can dye for the pretended safety of his Sovereign, and that in a strange way too, as if the head could not be safe, but by cutting off the right hand.

Sir, your desires have obliged me to unty my Wounds, yet scarce bound up, and by reflection upon that sad object, to fall a bleeding again; nor can I grant your suit to make that great Lord speak in his own dialect. *Pythagoras's* transmutation could not have found out a fit lodging for that noble Soul, nor doth nature give us wonders every day, nor strain her self ambitiously to shew forth the utmost reach of her perfections or Master-piece, and to present us with such a rare conjunction of such a courage, attended with loyalty to danger; wisdom accompanied with eloquence to admiration. What could not that man think? What think and not speak? What speak and not do? But I will not be too Rhetorical, that Speech, or rather Blemish, printed and pretended to be spoken by him in the *Tower*, is as like him as he was to a Pedant, his Soul now laughs (if that natural fence could reach so high) at that poor injury, it doth exceedingly well become the Charity of the times, not only to perturb his rest, but also by belying his Expressions, to make his own hands the Scatterers of his own dust, and his own Tongue the Trumpet of his own infamy: That Speech is a soist and a lye. His other Speech on the Scaffold, and with it, his Letter to the King, you shall find at the end of this Letter, in the best way we could get it, something of his greatness appears in his phrase, and as much life too as could by snatches be gathered from his mouth, yet it comes far short of that Grace which it had when it was delivered by himself, what by the escapes of the Observers, what by the Faint-heartedness of the Press, which durst not speak freely, for fear of Arbitrary Treason.

Two observable Expressions I had from an understanding Auditor.

First, Sir *George Wentworth* weeping extremely upon the Scaffold, was thus checked by him: Brother, what do you see in me that deserves these Tears? Doth my fear betray my guiltiness? Or my too much boldness any Atheism? Think now (and this is the third time) that you do accompany me to my Marriage Bed: Nor did I ever throw off my Clothes with such freedom and content, as in this my preparation to my Grave. That Stock [pointing to the Block appointed for his Execution] must be my Pillow, here must I rest, and rest from all my labours; no thoughts of Envy, no dreams of Treason, jealousies of Foes, cares for the King, the State or my self, shall interrupt this nap; therefore Brother, with me, pity mine Enemies, who beside their intention have made me blessed; rejoyce in my Innocency, rejoyce in my happiness.

Secondly, Kneeling down upon the Scaffold he made this Protestation; I hope, Gentlemen, you do think that neither fear of loss, nor love to Reputation, will cause me to bely God and my own Conscience, for now I am in the door going out, and my next step must be from Time to Eternity, either of Peace or Pain; to clear my self to you all, I do solemnly protest before God, I am not guilty (so far as I can understand) of that great Crime laid to my Charge, nor have ever had the least inclination or intention to damnify or prejudice the King, the State, the Laws, or Religion of this Kingdom, but with my best endeavours to serve all, and to support all [So might God be merciful to his Spal.] His words did justify him more there than in *Westminster Hall*, and made such a deep impression in the hearers, that a great many of those who cryed out for Justice against him (after their fury was spent, and their madness strewed with cold Blood) wished their Tongues had been cut out of their heads, before they had opened their mouths against him; others most ignobly imputed this to his effronted boldness, and are so persuaded of their own infallibility, that they marvelled he believed not his Actions to be Errors

upon their Word, and did not confels their Opinions to be Truth it self: A kind of People they are beyond the cure of *Bedlam*, and nothing but the Whipping-post, or letting Blood can do them good, or bring them remedy, *Vexatio tantum dabit Intellectum*, 'tis nothing but sence will teach them Judgment, and affliction Charity, and both these, I fear, are hastning on a pace.

His Countenance was in a middlé posture, betwixt Dejection and Boldness, a man may call it even Courage and Innocence it self, without any fear of Criticks; nor could his very Enemies, through their multiplying Glasses, perceive the least affectation of disguise in him; never man looked Death, more stately, in the Face; never man trembled more at his Sins, such were his Contritions for his Oversight, and such his immovable confidence of Gods Pardon and his Mercy.

His Prayer ravished all the standers by, that they could not judge whether to prefer his Zeal; or his Penitency; yea, the Primate of *Ireland* (who is no complementer) reported afterwards to the King, that he had then first learned to make supplications aright to God-ward; and withal, told His Majesty, That he had seen many die, but never such a white Soul (this was his own expression) return to its Maker; At which Words, the King was pleased to turn himself about, and offer a Tear to his Memory.

— *Tantum mercede Laborum.* —

And because mis-report, about him; and my Lords-Grace of *Canterbury*, hath wandred as far as *Cambridge*, give me leave to add the Story of that mistake. It was reported here by the divulgers of such slanders, that a little before his death, he had charged all his Misfortunes, Over-sights, and Misdemeanors, upon the Arch-Bishop of *Canterbury*, as the prime Author, and had bitterly curst the Day of their first Acquaintance: A pretty Invention it was, to charge the Axe again, and to furnish the People with lungs and voices to cry for another Sacrifice; yea, to stain this Martyrs long white Robe, with the Innocent blood of another Heroe. O ye sons of men! How long will ye love vanity, and seek after leasing?

For this cause, I was the more Inquisitive to learn out the Truth of this particular, and had it thus related to me by a worthy Divine, Doctor *Wimberly*, who dining with my Lord of *Canterbury*, the day after the Earl of *Strafford's* Execution, had it from his own mouth. And my Lords-Grace, it seems, having heard of the mistake, did at every period take the Lieutenant of the Tower, then present, his Attestation and Approbation.

That the Lord *Strafford*, the Night before the Execution, had sent for the Lieutenant of the Tower, and asked him whether it were possible he might speak with the Arch-Bishop; the Lieutenant told him he might not do it, without order from the Parliament. Mr. Lieutenant, said he, you shall here what passeth betwixt us; it is not a time now, either for him to plot Heresie, or me to plot Treason: The Lieutenant answered, That he was limited, and therefore desired his Lordship would Petition the Parliament for that favour; No (said he) I have gotten my dispatch from them, and will trouble them no more; I am now petitioning an higher Court, where neither partiality can be expected, nor error feared: But my Lord, (said he) turning to the Primate of *Ireland*, then present, what I should have spoken to my Lords-Grace of *Canterbury*, you shall desire the Arch-Bishop to lend me his Prayers this Night, and to give me his Blessing when I do go abroad to Morrow, and to be in his Window, that by my last farewell, I may give him thanks for this, and all other his former favours.

The Primate, having delivered the Message without delay, the Arch-Bishop replied, That in conscience, he was bound to the first; and in duty and obligation to the second; but he feared his weakness and passion would not lend him Eyes to behold his departure.

The next Morning, at his coming forth, he drew near to the Arch-Bishops lodgings, and said to the Lieutenant, Though I do not see the Arch-Bishop, yet give me leave, I pray you, to do my last observance toward his rooms; in the mean time, the Arch-Bishop, advertized of his approach, came out to the Window; then the Earl bowing himself to the Ground, my Lord, said he, Your Prayers, and your Blessing. The Arch-Bishop lift up his hands, and bestowed both, but overcome with grief, fell to the Ground in *Animi Deliquio*. The Earl proceeding a little farther, bowed the second time, saying, Farewel, my Lord; God protect your Innocency.

To this relation, the Lord of *Canterbury* added, that it might perhaps seem an effeminacy; and softness unbecoming him, to be so cast down, but he hoped, by God's Assistance, and his own Innocence, that when he came to his own Execution (which he daily longed for) that the World should perceive he had been more sensible of the Lord *Strafford's* loss, than of his own; and good reason it should be so (said he) for the Gentleman was more serviceable to the Church (he would not mention the State) than either himself, or any of all the Church-men had ever been.

And that there may be a slaughter-Goat for the Sins of the People in *Scotland*, to wait upon this report, they have fained another of the same Meal; that the Arch-Bishop of *Canterbury*

casts back all his misdemeanors upon the Bishop of *Ross*, as if either the Lord *Strafford* had been tutored by the Arch-Bishop, or he by the Bishop of *Ross*, in the King and Country's Service; I did not think that both of them had past their pupilage, and could not have been bended to execute the directions of any man living, but only their own Masters; but this is a fair advertisement to the Bishop of *Ross*, to make himself the scape-Goat.

Hæu fuge nate Deo.

Give me leave to adjoin one thing more; When he was marched to the Scaffold, more like the General in the head of an Army, to breath Victory, than like a condemned man, to undergo the Sentence of Death; the Lieutenant of the *Tower* desired him to take Coach, for fear the People should rush in upon him and tear him in pieces; No, (said he) Master Lieutenant, I dare look death in the Face, and I hope the People too; Have you a care that I do not escape, and I care not how I dye, whether by the hand of the Executioner, or the madness and fury of the People. If that may give them better content, it is all one to me.

It is but diminutive to call it a wonder, it is something above, that his thoughts and expressions should be so present with him; no more putrification in them, than if he had been about some ordinary business: His Alacrity, his Devotion did amaze; yea, tear in pieces the hearts of all those about him, who had the least Grace or Humanity in them.

Too much Perfection indeed to be lost at one blow; but this Age was not worthy of it, nor shall any after Age, I think, ever enjoy the like, that only which is possible is the object of the Will, and therefore I will not endeavour to find out words for expressing this wonder of the Times; only I leave his virtues to speak the rest, to the *Admiration of Ours, and Compassion of succeeding Ages.*

A Letter to a Friend.

Believe me, Sir; this blessed departure of his, hath put me in love with Scaffolds more than Death-beds; Let it be my Paradox, (if not Prophetic to me) that it is the best kind of Dissolution, provided there be Innocence to uphold the Conscience; and (with good men at least) to maintain the Reputation afterwards: Here you are attended with the Pregnancy of Judgment and Memory, not weakened; nor clouded with tedious and giddy Sicknesses: Here you have a time prefixed, and must of necessity concentrate your self and your best resolution; elsewhere Nature is unwilling to find a Suspension, abhorring its own Destruction. (Imo quam multos in medio scelere mors occupavit & medium secuit crimen.) Here a Moment ends the Pain, which perhaps not seven Apprentisships elsewhere; and here, if any where, we find pity, yea, deservings both with God and good men; but he that sent us hither must prescribe us the way of our return.

Upon that very day of the Execution, in the Afternoon, (Abyss abyssum invocat, Blood calls for Blood) there happened a conflict betwixt the Scots and English Army, no certain number yet reported, nor what occasion; (Some say Six score, some Three score Scots, some Twenty, some Thirty English) only the matter it self was represented by the General, (the Lord Holland) upon a Letter from Sir John Conniere to the Parliament, upon Friday, with a mighty regret, that he had been appointed for Peace, but that unhappy rub had fallen out much contrary to his desire.

The King sent a Letter the day before the Execution, by the Prince, to the Upper-house, desiring the Rigour of that Sentence might be remitted; but it was sent back unbroken up, for fear either to refuse the King, or discontent the People: God forbid His Majesty should give so slender an ear to their Petitions.

The Lord *Strafford's* Children are restored to all his Estate, and if they Petition for it, shall be to his Honours too; the House of Commons have been as forward in this as any else; whether to make some recompence to them, or to give proof to the Nobility (lest they should be scared by the example) that not so much the Means as the Man was aimed at. But it will be a Question, whether they can restore that Head too, when the Kingdom shall need its service. It is to be feared, that his great Abilities will shortly be more understood by our want of them, than our fruition; so dark is mans understanding in Preserving that which is virtuous and useful amongst us.

Virtutem Incolumem odimus.

The

The Earl of Strafford's Letter to His MAJESTY

IT hath been my greatest grief in all my troubles, to be taken as a person that should endeavour to present and set things amiss between Your Majesty and Your People, and to have given Council tending to the disquiet of Your Majesty, and Your three Kingdoms.

Most true it is, that such an attempt (my private condition considered) had been a great madness, seeing through your gracious favour I was so provided, as I could not expect in any kind to mend my Fortune, or to please my mind, more than by resting where your bounteous hand had placed me; nay, the business is most mightily mistaken, for unto your Majesty it is well known, that my poor and humble advices concluded still in this, That your Majesty should never be happy, till there were a right understanding procured betwixt you and them: No other means to effect and settle this happiness, but by the Council and Assent of the Parliament, and no way to prevent the growing Evils of this State, but by putting your self entirely upon the Loyalty and good Affection of your Subjects.

Yet (such is my misfortune) the truth finds little credit; the contrary (it seems) generally believed; and my self reputed the cause of this great separation betwixt you and your People: Under a heavier Censure than this, I am persuaded no Gentleman can suffer, and now I understand that the minds of Men are the more incensed against me, notwithstanding your Majesty hath declared, That in your Princely Opinion I am not guilty of Treason, nor are you satisfied in Conscience to pass the Bill: This brings me into a great strait. Here is before me the ruin of my Children and Family, hitherto untouch'd in all the branches of it with any foul Crime. Here are before me the many Evils which may befall your Sacred Person, and the whole Kingdom, should your self and the Parliament be less satisfied the one with the other than is necessary for the King and People. Here are before me the things most valued, most feared by mortal Men [Life and Death:] To say, Sir, there hath not been a conflict within me about these things, were to make my self less Man than (God knows) my infirmities will give me leave, and to call a destruction upon my self, and my young Children, where the intentions (at least) of my heart, have been innocent of this great Offence (may be believed) would find no easie consent from Flesh and Blood.

But, out of much sadness, I am come to a Resolution of that which I take to be best becoming me, that is, To look upon that which is principally to be considered in it self, and that is doublets the prosperity of your sacred Person and the Common-wealth, infinitely to be preferred before any Man's private Interest: And therefore in few words, as I have put my self wholly upon the Honour and Justice of my Peers; so clearly as I wish your Majesty hath been pleased to have spared that Declaration of yours on Saturday last, and to have left me entirely to their Lordships; so now (to set your Majesty's Conscience at Liberty) I do most humbly beseech You, for the preventing of such mischiefs as may happen by your refusal, to pass the Bill, by this means to remove (praised be God I cannot say this accursed, but I confess) this unfortunate thing forth of the way towards that blessed Agreement, which God, I trust, shall for ever Establish betwixt you and your Subjects. Sir, my consent herein shall acquit you more to God, than all the World can do beside. To a willing Man there is no injury done, and as by God's Grace I forgive all the World, with a calmness and meekness of infinite contentment to my dislodging Soul, so, Sir, I can give the life of this World with all cheerfulness imaginable, in the just acknowledgment of your exceeding

favours, and only beg, that in your goodness, you would vouchsafe to cast your gracious Regard upon my poor Son and his three Sisters, less or more, and no otherwise, than their unfortunate Father shall appear more or less guilty of this Death. God preserve your Majesty.

Tower, May 9.
1641.

Your Majesties most Humble,

and Faithful Subject and Servant,

STRAFFORD.

The Petition of THOMAS, Earl of STRAFFORD, to the Right-Honourable the Lords Spiritual and Temporal in Parliament, at Westminster, 1641.

Sheweth,

THat seeing it is the good Will and Pleasure of God, that your Petitioner is now shortly to pay that duty which we all owe to our frail Nature; He shall in all Christian Patience and Charity conform and submit to that Justice, in a comfortable assurance of the great hope laid up for us, in the Mercy and Merits of our Saviour, Blessed for ever.

Only he humbly craves to return your Lordships most humble thanks for your noble Compassion towards those Innocent Children, who now with his last Blessing, he commits to the protection of Almighty God; beseeching your Lordships to finish your pious Intentions towards them, and desiring that the reward thereof, may be given you by him, who is able to give above all that we are able either to ask or think, where I trust the Honourable House of Commons will afford their Christian assistance.

And so beseeching your Lordships, charitably to forgive all his omissions and infirmities; he doth heartily and truly recommend your Lordships to the Mercies of our Heavenly Father, that for his goodness, he may protect you in every good work. Amen.

There was a foolish, ridiculous and scandalous Speech Printed, which was pretended to have been spoken by the Earl of Strafford, to certain Lords, before his coming out of the Tower, which is protested against, and avowed to be false, by the Lord Primate of Ireland, Earl of Cleveland, Earl of Newport, Lord Rich, Sir William Balfour, Sir William Wentworth, Sir George Wentworth, Dr. Care, Dr. Price.

The Paper containing the Heads of the Lord Strafford's last Speech, written with his own hand, as it was left upon the Scaffold, falling out of his Bosom,

1. Come to pay the last Debt we owe to sin.
2. Rise to Righteousness.
3. Dye willingly.
4. Forgive all.
5. Submit to Justice, but, in my Intentions, Innocent from subverting &c.
6. wishing nothing but good Prosperity to King and People.
7. Acquiesce the King constrained.
8. Beseech to Repent.
9. Strange way to write the beginning of Reformation, and settlement of a Kingdom in Blood.
10. Beseech that demand may rest there.
11. Call not blood on themselves.
12. Dye in the Faith of the Church.
13. Pray for it, and desire their Prayers with me.

A true COPY of his SPEECH delivered on the Scaffold.

My Lord Primate of Ireland,

IT is my great comfort that I have your Lordship by me this day, in regard I have been known to you these many years, and I do thank God and your Lordship for it that you are here, I should be very glad to obtain so much silence as to be heard a few words, but I doubt I shall not, the noise is so great. My Lords, I am come hither by the good will and pleasure of Almighty God, to pay that last Debt I owe to Sin, which is Death; and by the blessing of that God; to rise again through the Merits of *Jesuu Christ* to Righteousness, and Life Eternal. [Here he was a little interrupted.]

Mr Lords, I am come hither to submit to that Judgment which hath passed against me, I do it with a very quiet and contented mind; I thank God, I do freely forgive all the World, a forgiveness that is not spoken from the Teeth outward, (as they say) but from the very Heart: I speak it in the presence of Almighty God, before whom I stand, that there is not a displeasing thought arising in me towards any man living. I thank God I can say it, and truly too, my conscience bearing me witness, that in all my Employment since I had the Honour to serve His Majesty, I never had any thing in the purpose of my heart, but what tended to the joint and individual prosperity of King and People, although it hath been my ill fortune to be misconstrued.

I am not the first that hath suffered in this kind, it is the common Portion of us all, while we are in this life to err, Righteous Judgment we must wait for in another place; for here we are very subject to be mis-judged one of another; there is one thing that I desire to free my self of; and I am very confident (speaking it now with much chearfulness) that I shall obtain your Christian Charity in the belief of it. I was so far from being against Parliaments, that I did always think the Parliaments of *England* were the most happy constitutions that any Kingdom or Nation lived under, and the best means under God to make the King and People happy.

For my Death I here acquit all the World, and beseech the God of Heaven heartily to forgive them that contrived it, though in the intentions and purposes of my heart I am not guilty of what I dye for: And my Lord Primate, it is a great comfort for me, that His Majesty conceives me not meriting so severe and heavy a punishment, as is the utmost Execution of this Sentence. I do infinitely rejoyce in this mercy of his, and I beseech God return it into his own bosom, that he may find mercy when he stands most in need of it.

I wish this Kingdom all the prosperity and happiness in the World, I did it living; and now dying it is my wish: I do most humbly recommend this to every one who hears me, and desire they would lay their hands upon their hearts, and consider seriously, whether the beginning of the happiness and reformation of a Kingdom, should be written in Letters of Blood; consider this when you are at your homes, and let me be never so unhappy, as that the last drop of my Blood should rise up in Judgment against any one of you; but I fear you are in a wrong way.

My Lords, I have but one word more, and with that I shall end. I profess that I dye a true and obedient Son to the Church of *England*, wherein I was born, and in which I was bred. Peace and prosperity be ever to it.

It hath been objected (If it were an Objection worth the answering) that I have been inclined to Popery; but I say truly from my heart, that from the time that I was one and twenty years of Age, to this present, going now upon forty nine, I never had in my heart to doubt of this Religion of the Church of *England*, nor ever had any man the boldness to suggest any such thing to me, to the best of my remembrance. And so being reconciled by the merits of *Jesuu Christ* my Saviour, into whose bosom I hope I shall shortly be gathered, to those Eternal happinesses which shall never have end, I desire heartily the forgiveness of every man for any rash or unadvised words, or any thing done amiss, and to my Lords and Gentlemen farewell; farewell all things of this World.

I desire that you would be silent, and joyn with me in Prayer, and I trust in God we shall all meet and live Eternally in Heaven, there to receive the accomplishment of all Happiness, where every Tear shall be wiped away from our Eyes, and every sad thought from our Hearts, and so God bless this Kingdom, and *Jesuu* have mercy on my Soul.

Then turning himself about, he saluted all the Noble-men, and took a solemn leave of all considerable persons upon the Scaffold, giving them his hand.

After that, he said, Gentlemen, I would say my Prayers, and entreat you all pray with me, and for me; then his Chaplain laid the Book of *Common-Prayer* upon the Chair before him

as he kneeled down, on which he prayed almost a quarter of an hour, and then as long or longer without the Book; and concluded with the Lords Prayer.

Standing up he spies his Brother Sir George Wentworth, and calls him to him, saying, Brother, we must part, remember me to my Sister, and to my Wife, and carry my Blessing to my Son, and charge him that he fear God, and continue an obedient Son to the Church of England, and warn him that he bears no private grudge or revenge toward any man concerning me; and bid him beware that he meddle not with Church-livings, for that will prove a Moth and Canker to him in his Estate, and wish him to content himself to be a Servant to his Country, not aiming at higher Preferments.

After. To his Son Mr. Wentworth he commends himself, and gives him charge to serve his God, to submit to his King with all Faith and Allegiance in things Temporal, to the Church in things Spiritual; chargeth him again and again, as he will answer it to him in Heaven, never to meddle with the Patrimony of the Church, for if he did, it would be a Canker to eat up the rest of his Estate.

Carry my Blessing also to my Daughter Anne, and Arabella, charge them to serve and fear God, and he will bless them, not forgetting my little Infant, who yet knows neither good nor evil, and cannot speak for it self, God speak for it, and bless it. Now, said he, I have nigh done, one stroke will make my Wife Husbandless, my dear Children Fatherless, and my poor Servants Masterless, and will separate me from my dear Brother, and all my Friends. But let God be to you and them all in all.

After this, going to take off his Doubler, and to make himself unready, he said, I thank God I am not afraid of Death, nor daunted with any discouragement rising from any fears, but do as cheerfully put off my Doubler at this time, as ever I did when I went to bed; then he put off his Doubler, wound up his Hair with his Hands, and put on a white Cap.

Then he called, Where is the Man that is to do this last Office? (meaning the Executioner) call him to me; when he came and asked him forgiveness, he told him, he forgave him and all the World. Then kneeling down by the Block, he went to Prayer again himself, the Primate of Ireland kneeling on the one side, and the Minister on the other: To the which Minister, after Prayer, he turned himself, having done Prayer, and spake some few words softly, having his hands lifted up, and closed with the Minister's hands.

Then bowing himself to lay his Head upon the Block, he told the Executioner, That he would first lay down his Head to try the fitness of the Block, and take it up again before he would lay it down for good and all, and so he did: And before he laid it down again, he told the Executioner, That he would give him warning when to strike by stretching forth his hands; and presently laying down his Neck upon the Block, and stretching forth his hands, the Executioner brook off his Head at one blow, and taking it up in his hand, shewed it to all the People, and said, *God save the King.*

His Body was afterwards Embalmed, and appointed to be carried into *Tork-Spire*, there to be buried amongst his Ancestors.

He left these three Instructions for his Son in Writing.

First, That he should continue still to be brought up under those Governors to whom he had committed him; as being the best he could pick out of all those within his knowledge, and that he should not change them, unless they were weary of him; that he should rather want himself, than they should want any thing they could desire.

Secondly, He charged him, as he would answer it at the last day, not to put himself upon any public Employments, till he was thirty years of Age at least: And then if his Prince should call him to public Service, he should carefully undertake it, to testify his Obedience; and withal to be faithful and sincere to his Master, though he should come to the same end that himself did.

Thirdly, That he should never lay any hand upon any thing that belonged to the Church. He foresaw that Ruin was like to come upon the Revenues of the Church, and that perhaps they might be shared amongst the Nobility and Gentry: But if his Son meddled with any of it, he wished the Curse of God might follow him, and all them, to the Destruction of the most Apostolical Church upon Earth.

FINIS.